

# WIPO



**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

# E

**SCCR/1/9**

**ORIGINAL:** English, French, Spanish

**DATE:** November 10, 1998

## **STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS**

**First Session**

**Geneva, November 2 to 10, 1998**

REPORT

*adopted by the Standing Committee*

## INTRODUCTION

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the Standing Committee) held its first session in Geneva from November 2 to 10, 1998.

2. The following States members of WIPO and/or the Berne Union for the Protection of Literary and Artistic Works were represented at the meeting: Angola, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, the Former Yugoslav Republic of Macedonia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lithuania, Madagascar, Malta, Mauritania, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Russian Federation, Saudi Arabia, Senegal, Singapore, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Tunisia, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Yemen and Zimbabwe.

3. In accordance with the Standing Committee's decision (see paragraph 11 below), the European Community (EC) participated in the meeting in a member capacity, without the right to vote.

4. The following intergovernmental organizations took part in the meeting in an observer capacity: International Labor Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), International Maritime Organization (IMO), World Meteorological Organization (WMO), World Trade Organization (WTO), League of Arab States (LAS) and Organization of African Unity (OAU).

5. Representatives of the following international non-governmental organizations took part in the meeting as observers: Agence pour la protection des programmes (APP), American Bar Association (ABA), American Film Marketing Association (AFMA), Asia-Pacific Broadcasting Union (ABU), Association for the International Collective Management of Audiovisual Works (AGICOA), Association of Commercial Television in Europe (ACT), Association of European Performers' Organisations (AEPO), Caribbean Broadcasting Union (CBU), Comité de Seguimiento "Actores, Intérpretes" (CSAI), Copyright Research and Information Center (CRIC), Electronic Industries Association (EIA), European Alliance of Press Agencies (EAPA), International Association of Broadcasting (IAB), European Broadcasting Union (EBU), European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA), Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE), Ibero-Latin-American Federation of Performers (FILAIIE), Interamerican Copyright Institute (IIDA), International Association for the Protection of Industrial Property (AIPPI), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International Council of Scientific Unions (ICSU), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF),

International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians (FIM), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Intellectual Property Alliance (IIPA), International League of Competition Law (LIDC), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Video Federation (IVF), Japan Electronic Industry Development Association (JEIDA), Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law (MPI), National Association of Broadcasters (NAB), National Association of Commercial Broadcasters in Japan (NAB-Japan), North American National Broadcasters Association (NANBA), Performing Arts Employers Associations League Europe (PEARLE), Software Information Center (SOFTIC), Software Publishers Association (SPA), Union of National Radio and Television Organizations of Africa (URTNA) and World Association of Newspapers (WAN).

6. The list of participants (Annex II) is attached to this Report.

7. The session was opened by Dr. Kamil Idris, Director General of WIPO, who welcomed the participants.

#### **ELECTION OF OFFICERS**

8. The Standing Committee unanimously elected Mr. Jukka Liedes (Finland) as Chairman, and Mrs. Hilda Retondo (Argentina) and Mr. Shen Rengan (China) as Vice-Chairpersons.

9. Mr. Kurt Kemper acted as Secretary of the Session.

#### **ADOPTION OF THE AGENDA**

10. The Standing Committee unanimously adopted the agenda (document SCCR/1/1).

#### **RULES OF PROCEDURE**

11. The Standing Committee discussed Special Rules of Procedure and adopted them as contained in Annex I of this Report.

#### **PROTECTION OF AUDIOVISUAL PERFORMANCES**

12. The *Chairman* introduced the subject and noted the documents which had been circulated before and at the beginning of the meeting (documents SCCR/1/4, SCCR/1/5 and SCCR/1/6). He added that two further documents were under preparation which would be circulated as soon as possible, namely a document revising the position of countries of Latin America and the Caribbean (SCCR/1/7) and a document containing a proposal from Canada (SCCR/1/8). He also recalled that, among the proposals which were discussed at the June 1998 meeting of the Committee of Experts on a Protocol concerning Audiovisual

Performances (hereinafter referred to as “the Committee of Experts”), from the European Community and its Member States, the Republic of Korea, and of certain countries of Africa had not been revised, and still were on the table.

13. He opened the floor for general remarks, particularly concerning new developments which had taken place since the June 1998 meeting of the Committee of Experts.

#### General remarks

14. The Delegation of *Japan* introduced its proposal, contained in document SCCR/1/4, stressing that its purpose was to seek for a possible compromise by proposing a framework with flexibility and choice for contracting parties. Presenting the details of the proposal, the Delegation emphasized that, in Article 8(1) and (2) of the proposal, certain exclusive rights were granted for fixed audiovisual performances, but under Article 9(1), these rights could not be exercised by the performer without any contrary or special contract. The intention was to obtain the same meaning as under Article 19 of the Rome Convention, although the language of Article 14bis(2)(b) of the Berne Convention had been used. It was expected, however, that remuneration rights would be established by national legislation (Article 10). To the extent that this would be the case, national treatment would apply on a reciprocal basis (Article 4(2)) and retroactive protection would not apply (Article 16(2)). Under Article 9(2), contracting parties might choose to maintain exclusive rights for audiovisual performers, but only for their own nationals and without national treatment of performers from other contracting parties.

15. The Delegation of the *United States of America* announced that on October 28, 1998, President Clinton had signed into law the Digital Millennium Copyright Act which implemented the WCT and the WPPT. On October 21, 1998, the Senate had given its advice and consent to the ratification of those Treaties, and the Administration was now preparing the instrument of ratification. The Delegation summarized the main contents of the Act and added that another recent Act had extended the term of copyright protection of authors to life plus 70 years and had regulated certain questions regarding the licensing of performing rights in musical works.

16. The Delegation also pointed at its proposed Substantive Provisions of a Treaty for the Protection of Performers in Audiovisual Works which were included in document SCCR/1/4 and which replaced the proposal that had been discussed at the second meeting of the Committee of Experts. The new proposal responded to some of the criticism which had been raised at that meeting.

17. The Delegation of *Singapore*, speaking on behalf of the Group of countries in Asia and the Pacific, summarized its proposal contained in document SCCR/1/5 that had been prepared at the regional consultation meeting for Asia and the Pacific which had taken place in Shanghai from October 14 to 16, 1998. At that meeting, the proposals from Japan and the United States of America had been available, and the contents of the proposal from the Group of countries in Latin America and the Caribbean had also been communicated to the participants.

18. The Delegation of *Mexico* said that what the present gathering had to do was confront a variety of opinions and devise adequate solutions with which to take the discussion into greater depth and bring about the signature of an international instrument for the protection of performances in audiovisual works. The debate also had to resume on the protection to be given to databases and on the related rights of broadcasting organizations. There was moreover a need for revision, adaptation and development of the national agencies responsible for intellectual property protection.

19. The Delegation of the *Republic of Korea* referred to its proposal for the second meeting of the Committee of Experts (document AP/CE/2/3) which was based on the understanding that the specific conditions governing audiovisual performances made it necessary to take into account the relevant rules of the Berne and Rome Conventions.

20. The Delegation of *South Africa*, speaking on behalf of the African Group, referred to the Regional Consultation Meeting for Africa which had taken place in Geneva the week before. The African Group had had the opportunity to receive Delegations from the European Community, Japan and the United States of America for presentations of their proposals. The Delegation referred to the group's proposal, contained in document AP/CE/2/5 and in the comparative table in document AP/CE/2/7, which continued to reflect the position of the Group.

21. The Delegation of the *European Community* mentioned that there was no new proposal from the European Community and its Member States. It was now the time to evaluate the different proposals and make assessments. It was the view of the Delegation that the main purpose of the Protocol was to improve and modernize the protection of audiovisual performers rather than producers who were protected elsewhere. The Rome Convention was outdated and the level of protection should correspond to that of the WPPT. The main objectives should be to take due account of the differences between aural and audiovisual performances while avoiding to introduce discrimination between those two sectors and to improve on the limited acceptance of the Rome Convention by safeguarding global membership for the protocol. Therefore, it should not be overly ambitious and it should not make changes in already settled issues, such as national treatment, or introduce new clauses, such as on transfer of rights. The Delegation confirmed that its proposal contained in document AP/CE/2/2 and in the comparative table in document AP/CE/2/7 was still valid.

22. The *Chairman* stated that he saw no need for a general discussion, but rather preferred that the Standing Committee focused on the relevant issues. He suggested that the discussion be organized in accordance with the table of contents in document AP/CE/2/7, in such a way that the floor would only be opened for such issues where it would be possible to make progress at this stage.

#### Title and nature of the instrument

23. The *Chairman* introduced this item, pointing at the two options so far reflected in existing proposals, namely a Protocol to the WIPO Performances and Phonograms Treaty (WPPT) or a self-standing treaty.

24. The Delegation of the *United States of America*, referring to its choice of an independent treaty, explained that an instrument on the rights in audiovisual performances should respond to labor practices and industrial practices in the audiovisual industry. The conditions of employment, the contractual arrangements and the scope of the necessary investment as well as the large number of participants in the audiovisual industry were different from those in the music industry and therefore required separate consideration. With regard to provisions on the transfer of rights, the Delegation noted that the Berne Convention, in its Article 14*bis*, as well as the Rome Convention, in its Article 19, made special reference to audiovisual works in order to facilitate exploitation of audiovisual works. The proposal of the United States built on these examples, but gave stronger protection to performers, because it contained a simple presumption of transfer of rights, giving the performer the opportunity to rebut the presumption by contractual arrangements to the contrary.

25. The Delegation of *India* considered that an independent treaty perhaps offered a certain flexibility, taking into account the specificity of the audiovisual and, in particular, the film industry.

26. The Delegation of *China*, pointing at the solutions already found in the WPPT, spoke in favor of a Protocol to the WPPT, instead of a self-alone treaty. The Delegation of *Senegal* considered that only the Protocol solution would correspond to the spirit of the Resolution concerning Audiovisual Performances of December 20, 1996. The Delegation of *Switzerland*, also invoking that resolution in favor of the Protocol solution, found that in areas like videoclips and multimedia products it was difficult to draw the borderline between audio and audiovisual performances. The Delegation considered that one should be prepared for some flexibility in this issue.

27. The Delegation of *Singapore*, reporting on a consultation of the Asian Group, said that the Group felt that this difficult issue, at the current stage, could not be prejudged.

28. An observer from the *International Confederation of Societies of Authors and Composers* (CISAC) supported the Delegation of Senegal and considered that the issue was prejudicial and should be decided before the substantive questions were tackled.

29. An observer from the *International Federation of Musicians* (FIM) was of the opinion that Article 19 of the Rome Convention could not be invoked in support of transfer of rights, because it did grant both a right of fixation and the full scope of economic rights in relation to unauthorized fixations. Furthermore, that Article did not preclude national law from granting further rights. One should also pay attention to the quite confined scope of application of Article 14*bis* of the Berne Convention.

30. An observer from the *Ibero-Latin-American Federation of Performers* (FILAIIE) agreed with the two preceding speakers and added that the proposal on transfer of rights by the United States of America would mean that audiovisual performers could not oppose uses different from those envisaged when the performance was agreed upon.

31. The *Chairman* concluded that it would be necessary to discuss the substance before knowing which type of agreement would be possible, because by then it would be clear how the result would relate to the WPPT. No matter which type of instrument would be preferred,

it would, however, be an instrument under international law, and it would therefore only be a question of its link to the WPPT.

#### Relation to other Conventions; Relation to copyright

32. The Delegation of *Senegal* said that this provision depended on a decision of the Protocol-Treaty question just discussed.

33. An observer from the *International Federation of Musicians* (FIM) stated that the proposal of the European Community and its Member States did not refer to the Rome Convention. He did not consider that necessary. But Article 22 of the Rome Convention would have to be kept in mind.

#### Definitions

34. The *Chairman* introduced the subject summarizing the main differences between the definitions in the available proposals, and stressed that the wording of the definitions was closely related to the substantive provisions. The main differences that could be discussed at the meeting concerned the exclusion of ancillary performers and the need to have a definition of an audiovisual work. The remaining differences concerned nuances that were better left for discussion at a later stage.

35. The Delegation of *Ghana* pointed out that the question of the legal character of the instrument also had repercussions on the definitions, and it suggested that the question be clarified.

#### ***Definition of “performers”***

36. The Delegation of *France* asked for clarification whether any difference was intended between “ancillary performers” in the proposal of the United States of America and the term “*artiste de complément*” which was used in the French Copyright Law.

37. The Delegation of *Singapore* pointed out that the term might have an established meaning in France, but that might not be the case in other countries. It felt that the term “ancillary performers” might be wider than the terms that were discussed in the Committee of Experts.

38. The Delegation of *Bangladesh* raised the question whether directors who have a great influence on the acting of the performers would also be considered performers.

39. The Delegation of the *United States of America*, responding to the Delegation of Bangladesh, stated that it would not consider a director as a performer, but rather a co-author of the audiovisual work. In responding to the Delegation of France, it said that it had intended to adopt the spirit of the French Copyright Law regarding ancillary performers by using the

WIPO English translation of that Law, and the aim was to provide leeway for national legislation to take into account local practices.

40. The Delegation of the *European Community*, supported by the Delegation of *Italy*, agreed that a line might have to be drawn regarding extras, but it felt that it should be left for national law rather than be taken into an international instrument. Here, as elsewhere, a reference to the provisions of the WPPT would be sufficient. Also in the sound sector there were many extras and large numbers of participants.

41. The Delegation of *Singapore* explained that it was the opinion of the Asian Group that, while there was a clearer understanding of what was intended by the exclusion in the different proposals, it was still a question whether it would not be better to leave to national law to reflect the different practices in each country. The Group had not reached a conclusion on this matter, but it was the feeling that if it were to be included in an international treaty, more clarity should be provided.

42. An observer from the *Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE)* was grateful for the clarification provided by the Delegation of the *United States of America*, but pointed at the different understandings in different countries and expressed the need for flexibility in national law.

43. An observer from the *International Federation of Musicians (FIM)* was of the opinion that, because Article 19 of the Rome Convention granted certain rights for audiovisual performers which were linked to the definition of performers in that Convention, Article 22 of the Convention prevented countries party to it from adopting a new definition which would entail a lower level of protection. It would also be unacceptable to musical performers if they would be excluded from protection under the proposed definition.

44. An observer from the *International Federation of Actors (FIA)* declared that her organization had accepted the principle of exclusion of certain groups, but it questioned whether the term in the French Law could be translated. The term “ancillary performer” was self-contradictory, and should perhaps be replaced by “ancillary participant.”

45. An observer from the *International Association of Broadcasting (IAB)* found it necessary to restrict the personal scope of the protection by excluding extras.

#### ***Definitions of “audiovisual fixation” and “audiovisual work”***

46. The Delegation of *France* questioned the distinction between audiovisual fixations and audiovisual works in the proposal of the United States of America, and asked whether that would exclude protection for performances which were fixed in audiovisual recordings that were not works. It also pointed out that in the French translation of the proposal it appeared that only recordings accompanied by sound could be qualified as audiovisual works.



47. The Delegation of *Belgium* added that the French translation of that proposal could be read as not requiring any originality at all for audiovisual works. It asked what would be the consequences and what was the justification of the differences in certain articles of the proposal where, in some places, there were references to audiovisual fixations and, in others, references to audiovisual works. Particularly, for performances of expressions of folklore it might have repercussions for the protection if they were not fixed in an audiovisual work.

48. The Delegation of the *United States of America* stated that the distinction between audiovisual fixations and audiovisual works was an important part of the structure of its proposal. An audiovisual performance could be, for example, a stage performance which might, or might not, be fixed. An audiovisual fixation was the medium on which it could be fixed. Sound was not required for a fixation to be an audiovisual work, but if it were there, it would be part of the work.

49. The Delegation of *Australia* felt that it might be clarified in the proposal by the United States of America that audiovisual works had to be fixed. It also pointed out that representations of images of sounds were not covered by that definition, but that otherwise there seemed to be no substantive difference between that definition and the definition of “fixation” in that proposal.

50. The Delegation of the *European Community* was of the opinion that, while a definition of an audiovisual fixation was needed, there was no need for a definition of an audiovisual work. The Delegation of *Italy* supported this and added that the concept of animation was needed in the definition of an audiovisual fixation and in this respect it saw a contradiction in items (b) and (e) in the proposal of the United States of America. This was supported by an observer from the *International Federation of Musicians* (FIM).

51. The Delegation of *Argentina* said that the proposal by the countries of Latin America and the Caribbean included “the representation of sounds and images” in the definition of fixation and that, according to the definition of “audiovisual works,” such works might or might not include sound. The definition of a work likewise referred to the representation of images and sounds.

52. An observer from the *Comité de Seguimiento “Actores, Intérpretes”* (CSAI) stated that the protocol should include all recordings of audiovisual performances, and pointed out that otherwise it would create problems in relation to Article 2(a) of the WPPT and Article 3(a) of the Rome Convention which covered all performances, regardless of how they were fixed.

### ***Other definitions***

53. The Delegation of *Australia* pointed out that the *mutatis mutandis* references to Article 2(g) of the WPPT in the definitions proposed by the European Community and its Member States, by Japan and by Latin American and Caribbean Countries should be confined to the first sentence of that item.

54. The *Chairman* stated that most of the references to the definitions in the WPPT seemed to be generally acceptable, and that only one question posed a problem, namely the exclusion of extras. The remaining issues depended on the contents of the substantive and framework clauses of the instrument.

#### Beneficiaries of protection

55. The *Chairman* explained that five of the proposals referred to the nationality of the performer as point of attachment, while the revised proposal of the United States of America, in addition, offered as points of attachment the country, where the performance is given or fixed in an audiovisual work, and the country of the habitual residence of the performer.

56. The Delegation of the *Islamic Republic of Iran* pointed at the relationship between the provisions on beneficiaries of protection and the provisions on national treatment and, in particular, to the fact that the latter provisions addressed nationals of other Contracting Parties only. The Delegation questioned whether the two different rules were compatible with each other in all proposals.

57. The *Chairman* noted that this question led him to invite the Standing Committee to a meaningful debate on the crucial question of national treatment.

#### National treatment

58. The Delegation of *Argentina*, on behalf of the Group of Countries of Latin America and the Caribbean, considered that the instrument should be a Protocol to the WPPT. Consequently, also in this new instrument, like in the WPPT, national treatment should be confined to the rights guaranteed in it, including possible rights to a remuneration.

59. The Delegation of *South Africa*, on behalf of the African Group, explained the proposal by the African Countries (document AP/CE/2/5, Article 4). Its basic philosophy was that a national treatment, similar to the national treatment in the Berne Convention, would be the ideal. But such protection would be inadequate for example in the case of the rental right, where there were important differences among national laws. The Delegation added that national treatment would be subject to the reciprocity principle with respect to certain additional rights recognized in national legislation, given the substantial differences in protection level between national laws. The Delegation of *Australia* considered that this was an important point and that the solution offered by Africa, so far it referred to minimum standards of protection and also allowed reciprocity as regards protection in excess of those standards, deserved consideration.

60. The Delegation of *Japan* explained its proposal (contained in document SCCR/1/4). What was proposed in Article 4(1) was a Rome Convention type of national treatment. In addition, if national legislation, beyond the minimum standard of the Protocol, established remuneration rights under Article 10 of the proposal, Article 4(2) provided in such case for a reciprocity-based national treatment.

61. The Delegation of *Canada* expressed its tendency to favor the positions of the European Community or Japan. It was opposed to broad national treatment along the lines of the Berne Convention. Furthermore, the Delegation wished a rule on the shorter term or the comparison of the term of protection. A proposal on this issue was included in document SCCR/1/8.

### Moral rights

62. The *Chairman* drew the attention of the Standing Committee to the fact that two of the existing proposals, and in particular, their provisions on moral rights, had been revised since the second session of the Committee of Experts in June 1998.

63. The Delegation of the *Islamic Republic of Iran*, considering the provisions on moral rights in these proposals, recommended to make them more readable and simpler.

64. A provision that was in parallel with Article 5 of the WPPT, either applied *mutatis mutandis*, as proposed by the European Community and its Member States, or spelled out, as in the proposal from the Group of African Countries, was supported by the Delegations of the following countries: *Italy, Belgium, Spain, France, Switzerland, Hungary* and *South Africa* on behalf of the African Group, and by observers from the following organizations: *International Literary and Artistic Association (ALAI), Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE), Copyright Research and Information Center (CRIC), Comité de Seguimiento "Actores, Intérpretes" (CSAI), International Federation of Musicians (FIM), Ibero-Latin-American Federation of Performers (FILAIE)*. An observer from the *Copyright Research and Information Center (CRIC)* pointed out that granting performers a moral right corresponding to the moral right of an author or a director who contributed to making a film, did not conflict with producers' rights or advantages with respect to exploitation of the film.

65. The Delegations of *France* and *Belgium* and the observers from the *United Nations Educational, Scientific and Cultural Organization (UNESCO)* and the *International Federation of Musicians (FIM)* found it difficult to distinguish, within one production, between two different moral rights regimes for performers.

66. An observer from the *International Federation of Musicians (FIM)* pointed at the case of a sound recording and an audiovisual fixation being made of one musical performance. He also questioned which regime would apply if only the aural part of a fixation was modified.

67. The Delegation of the *United Kingdom* said that Article 5 of the WPPT should be the starting point for a solution. While there might be differences that called for a slightly modified approach in the audiovisual field, a departure from Article 5 of the WPPT would have to be thoroughly justified.

68. The Delegation of *India* said it believed that moral rights were a cornerstone of artists' protection, but moral rights did not operate in a vacuum. Moral rights necessarily operated in the particular historical context and in the circumstances of the industry concerned. This was

reflected in the movement from the Berne Convention to the WPPT. The WPPT should be the point of departure.

69. The provision in the revised proposal of countries of Latin America and the Caribbean (document SCCR/1/7) was supported by the Delegation of *Argentina*, speaking on behalf of the countries of the region. The proposal now, at the end of the first paragraph, reduced and concretized the too widely formulated exception for “normal exploitation,” as contained in an earlier text. The Delegation of *Brazil* added that the new wording had been formulated at Brazil’s initiative and built mainly on the new Brazilian Copyright Act. That exception was justified to the extent to which the exercise of moral rights would inhibit necessary exploitation. An observer from the *International Association of Broadcasting (IAB)* supported this proposal.

70. The Delegation of the *United States of America* said that the changes now contained in the Article on moral rights were not designed to expand or narrow the intended scope of the provision as put forward earlier. Rather, these revisions were meant to make the language more precise and to answer some justifiable criticisms of the earlier drafting. The Delegation explained details of the changes, as reflected in the Commentary on the Revised Proposal (document SCCR/1/4). It added that the moral rights provision was a minimum requirement, allowing Contracting Parties to set more favorable rules for performers. The Delegation of the *Republic of Korea* and observers from the *International Association of Broadcasting (IAB)* and the *National Association of Broadcasters (NAB)* supported the proposal.

71. The Delegation of *Italy*, followed by those of *Spain, France* and *Switzerland* and by observers from the *International Confederation of Societies of Authors and Composers (CISAC)* and the *Comité de Seguimiento “Actores, Intérpretes” (CSAI)*, criticized the restrictive elements contained in paragraph 1 of both the proposal from the United States of America and the proposal from the countries of Latin America and the Caribbean as unduly mixing up economic rights, namely modification rights, elements with the moral rights protection while an observer from the *International Federation of Film Producers Associations (FIAPF)* opposed this argument.

72. The qualification in the United States of America proposal that the prejudice to the performer’s reputation had to be serious was rejected by the Delegations of *France* and, on behalf of the African Group, *South Africa*, as well as by observers from the *International Literary and Artistic Association (ALAI)* and the *Ibero-Latin-American Federation of Performers (FILAIE)*.

73. The Delegation of *Canada* said that it was a problem for Canada that paragraph 1 of the proposal of the United States of America referred only to the producer and not to the author of the work or the author’s successor in title. The Delegation of *Hungary* considered that paragraph 1 was contradictory, in that the second sentence annihilated the first.

74. The Delegation of *Australia* questioned the legal effect of paragraph 4, second sentence, of that proposal: Was it an exhortation or a qualification for the exercise of the right? Were the interests of other performers and of authors and directors intended to cover their economic rights or their moral rights? There was no such qualification in the WPPT, but the problem of

multiple performers might be similar in a sound recording. Perhaps Article 1(2) and (3) in the United States proposal already addressed the concern as regards writers and directors.

75. The Delegation of the *United States of America* said that paragraph 4, second sentence, was quite important. Its concept was not without precedent in national legislations. Article 93 of the German Copyright Act addressed moral rights in cinematographic works for authors and performers, providing that each of these rightholders must take the others and the film producer into due account when exercising the right.

76. An observer from the *International Federation of Actors* (FIA) associated herself with the query of the Delegation of *Australia*. She pointed out that, unlike the German Law, paragraph 4 of the United States proposal fell only on performers.

77. The Delegation of *Belgium*, considering the qualifications contained in the proposed Article on moral rights, recalled that similar qualifications had been discussed in the Stockholm Revision Conference in the context of the drafting of Article 14 *bis* of the Berne Convention, but had been rejected as it had not seemed necessary to adopt such detailed provisions at international level. This should be a precedent for the Protocol.

78. An observer from the *International Literary and Artistic Association* (ALAI) took the view that paragraph 4, second sentence, of the United States proposal was a rule of general civil law. It was preferable to leave such rule to national jurisdiction.

79. The *Chairman*, summarizing the discussion on moral rights, said that thanks to the achievement in the WPPT, this had been a constructive discussion, limited to the extent of the protection of moral rights, without references to the old doctrinal difficulties. Most proposals reflected the WPPT approach, some qualified that protection. It was clear that Contracting Parties could give stronger protection to performers. He further recalled the relation of the moral right with the right to control any modification. A right of modification was not internationally recognized. Consequently, modification acts were allowed, unless they prejudiced the reputation of the performer. But there was still the reproduction right that might be infringed by modification acts.

#### Rights of performers in unfixed performances

80. The *Chairman* stated convergence of existing proposals in this area, so that there was no need for a discussion.

#### Rights of performers in audiovisual fixations

81. The *Chairman* summarized the progress made in the Committee of Experts concerning the rights of performers in audiovisual fixations and concluded that it would not be necessary to discuss other rights than those of broadcasting and communication to the public and, possibly, the right of rental, as these seemed to be the only issues where substantial differences in opinion existed. The other rights appeared to be ripe to be taken to the next level of

discussions in the form they had in the WPPT, including the relevant agreed statements. He summarized the proposals concerning broadcasting and communication to the public.

82. The Delegation of *Hungary* pointed out that there was still a substantial difference between the proposals regarding those other rights, in that the proposal of Countries in Latin America and the Caribbean referred to audiovisual works where other proposals referred to audiovisual fixations.

83. The Delegation of *Mexico* clarified that the concept of an audiovisual fixation referred to the right of performers under the Rome Convention to authorize fixation on a material support, whereas an audiovisual work referred to the category of work under copyright protection.

### **Right of rental**

84. The Delegation of the *European Community*, supported by the Delegation of the *United Kingdom* and an observer from the *International Federation of Musicians* (FIM), recalled that a rental right had been proposed by the European Community and its Member States, and it was granted in the WPPT with a grandfathering clause. The Delegation questioned why that right should be limited to audio performers, because it did not find that a case had been made in this respect.

### **Right of broadcasting and communication to the public**

85. The Delegation of *Canada* preferred that no mandatory (exclusive or remuneration) right be included. This could be done either by omitting the right entirely or by including it on a purely optional basis similar to Article 15 of the WPPT.

86. The Delegation of *Japan* recalled that its proposal did not contain a broadcasting right, but a right of remuneration could be applied in national law.

87. The Delegation of *Singapore* was of the opinion that, if a provision on these rights were to be included, a reference to Article 15 of the WPPT would provide the necessary flexibility for national legislation.

88. The Delegation of the *European Community* mentioned that it had not proposed a *mutatis mutandis* application of WPPT Article 15, because it would not be directly applicable. It felt that before any treaty language regarding rights for broadcasting and communication to the public should be drafted, the economic consequences thereof should be analyzed first.

89. The Delegation of the *United States of America* pointed out that it had proposed rights of broadcasting and communication to the public corresponding to Article 15 of the WPPT, but that proposal had now been simplified through a reference to Article 11*bis* of the Berne Convention, as performers should have rights comparable to those of authors in audiovisual works. It considered these rights an important addition to the rights of performers.

90. The Delegation of the *United Kingdom* questioned the meaning of the last phrase of Article 10 in the proposal of the United States of America, stating that the context was different from the similar language in the Rome Convention. The Delegation of *Australia* raised the same question and asked whether the phrase meant that the repeat showing of a film or program by the original broadcaster or another broadcaster would not be covered by the right. The Australian Delegation also pointed out that the absence of a reference to paragraph (3) of Article 11 *bis* of the Berne Convention meant that performers would have a stronger protection than authors. The Delegation of the *United States of America* declared itself willing to look at the points raised by the Delegations of the United Kingdom and Australia.
91. The Delegation of *Denmark* specially asked the Delegation of the United States to clarify at a later stage whether simultaneous cable retransmission of broadcast performances was covered by their proposal taking into account the sentence “except where such a performance is already a broadcast performance.”
92. The Delegation of *Switzerland* agreed that Article 15 of the WPPT could not be applied *mutatis mutandis* because the basis had to be defined. In the national law of its country, a right of remuneration existed for broadcasting of videograms available on the market, and it asked why audiovisual performers should not have such a right, similar to that of audio performers.
93. The Delegation of *Argentina* recalled that there was not a full consensus in the Group of Countries in Latin America and the Caribbean concerning the proposal regarding the rights at issue, and it reserved the possibility to revert to that question.
94. The Delegation of *South Africa* stated that the African Group was still studying the issue.
95. An observer from the *Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law* (MPI) feared that the reference to audiovisual works in the proposal of Countries in Latin America and the Caribbean would mean that musicians would not be protected in relation to recordings of, for example, concerts, if such recordings did not qualify as works. She also questioned how the deletion of the implementation clause in the revised proposal of the United States had to be understood. How would exclusive rights be implemented in the United States?
96. An observer from the *International Federation of Actors* (FIA) saw no justification for excluding rights of broadcasting and communication to the public for audiovisual performers. Such rights would be implemented by bargaining in each country, and they dealt with a major and growing use in which the performers should have a stake.
97. An observer from the *International Federation of Musicians* (FIM) pointed at the development of modern communication techniques, such as near -on-demand television, which completely changed the basis for the compromise in Article 12 of the Rome Convention, on which WPPT Article 15 was based. In his view, soundtracks of audiovisual fixations were covered by Article 12 and not Article 19 of the Rome Convention.

98. An observer from the *International Association of Broadcasting* (IAB) was of the opinion that discussions on the contents of the rights were superfluous if other provisions in reality meant that the rights would be transferred to the producers. Such rights would be an additional burden on broadcasters, and he supported the position of the Delegation of the European Community.
99. An observer from the *International Confederation of Societies of Authors and Composers* (CISAC) endorsed the positions of the Delegations of Canada and the European Community. The granting of exclusive rights would run counter to other rights and a conflict regarding one such right would deny the exercise of the other.
100. An observer from the *North American National Broadcasters Association* (NANBA), also speaking on behalf of the *National Association of Broadcasters* (NAB), supported the positions of the Delegations of Canada and Singapore and noted the different positions among governments. She supported the position of the Delegation of Australia concerning ephemeral reproduction.
101. An observer from the *International Federation of Film Producers Associations* (FIAPF) agreed that a *mutatis mutandis* application of WPPT Article 15 would not be possible. Commercially sold copies of audiovisual fixations were not used for broadcasting by legitimate broadcasters. Furthermore, under existing contracts, performers were already paid for the broadcasting of their fixed performances.
102. An observer from the *European Federation of Joint Management Societies of Producers for Private Audiovisual Copying* (EUROCOPYA) was opposed to the granting of broadcasting rights for performers. Such a right had not been agreed on at the European Community level and it would be too early to establish it on an international level.
103. An observer from the *Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants* (ARTIS GEIE) stressed that the issue covered many different kinds of audiovisual recordings. It was in favor of rights of broadcasting and communication to the public and stressed that performers should be entitled to obtain remuneration for each subsequent exploitation of their performances.
104. The *Chairman* concluded regarding the rights of broadcasting and communication to the public that there were quite diversified opinions, ranging from exclusive rights with conditions as set out in Article 11*bis*(2) of the Berne Convention to no rights at all. There had been both a clear opposition to, and support of, the application *mutatis mutandis* of Article 15 of the WPPT, and further discussions were necessary because many governments were clearly in favor of granting at least certain rights. He felt it should be possible to reach a solution where the governments that wanted to grant such rights could internationalize that protection while other governments had the possibility of opting out.



### Limitations and exceptions

105. The *Chairman* stated that he did not consider it necessary to discuss limitations and exceptions further at the present stage of the work.

### Contractual arrangements/transfer of rights

106. The *Chairman* mentioned that, on the question of contractual arrangements and transfer of performers exclusive rights, the United States of America, Japan, certain countries of Latin America and the Caribbean, and Canada, had submitted proposals, while neither the European Community and its Member States, nor the African countries, in their respective proposals, had aimed at regulating this matter.

107. The Delegation of *Canada* referred to its verbal proposal concerning a possible transfer of rights provision made at the June 1998 meeting of the Committee of Experts. It said that a completely mandatory provision was unacceptable for Canada. Canadian law did not have any provision of this type with respect to performers. The present proposal, as included in document SCCR/1/8, was an option offering several alternatives for which the Delegation gave some clarification on the structure and the meaning. The other option was not to include any transfer of rights provision in the instrument.

108. The Delegation of *Japan* explained that its proposal considered the need of balance between performers' rights and those of authors who contributed to the making of the cinematographic work; therefore, it used Article 14bis(2)(b) of the Berne Convention and Article 19 of the Rome Convention as a reference. Rights granted to performers could not be exercised without any contrary or special contract. The Delegation added that the main purpose of its proposal was to provide flexibility and that a Contracting Party might establish or maintain national legislation which did not apply such system. An observer from the *National Association of Commercial Broadcasters in Japan* (NAB-Japan) agreed with the need of an international treaty which would be flexible enough and said that the Japanese proposal was worthwhile to be considered as it met such flexibility and kept a balance between protection and use.

109. The Delegation of the *United States of America* emphasized that its proposal set a clear rule to reach an international harmonization and an appropriate level of certainty, while providing flexibility to countries to enact remuneration rights to protect performers or to rely on collective bargaining agreements or other types of contracts. The Delegation said that the proposal was providing for a rebuttable presumption of transfer of rights that applied only to performers' exclusive rights of authorization but not to moral rights or rights of remuneration established by law or by contractual negotiations. It also said that countries would be free to provide for remuneration rights of performers, which could be administered by collecting societies.

110. The Delegation of *South Africa*, speaking also on behalf of the African Group, said that, in developing countries there was a complete lack of collective and individual bargaining, as well as a lack of resources and of access to legal services. A mandatory provision on a presumption of transfer of rights was therefore unviable. Consequently, the African Group

could not accept the proposal of the United States of America, nor could it support the proposal by Japan, which would sterilize the rights of audiovisual performers since they would be unenforceable by anyone. The Group needed more dialogue with the Delegation of Canada in order to take a position on that country's proposal. The Delegation of *Senegal* added to these observations that its national law provided for a presumption of transfer of rights through contracts under certain conditions. The Delegation of *Ghana* emphasized the need of recognition of appropriate rights before dealing with questions of their exercise.

111. The Delegation of the *United States of America*, in response to the statement made on behalf of the African Group, acknowledged that in countries, where performers did not have bargaining power, the appropriate solution might be to combine the presumption of transfer of rights with a statutory remuneration right.

112. The Delegation of *Argentina*, speaking also on behalf of the Group of Latin American Countries and the Caribbean, referred to Chapter XII of document SCCR/1/7 where it was proposed to apply *mutatis mutandis* the provisions of Article 14bis(2)(b) of the Berne Convention. It also pointed at the proposal in the document for a right of rental, along the lines of the rental right for authors of cinematographic works in the WCT.

113. The Delegation of the *European Community*, the Delegations of *Norway*, *Denmark* and *Belgium* as well as observers from the *Association of European Performers' Organisations* (AEPO), the *International Federation of Musicians* (FIM) and the *Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants* (ARTIS GEIE) opposed the *mutatis mutandis* application of Article 14bis(2)(b) of the Berne Convention, while an observer from the *International Association of Broadcasting* (IAB) said that such provision permitted the development of the audiovisual industry and that a similar system was applied in practice with performers and producers.

114. The Delegation of *Belgium* referred, in particular, to the Stockholm Diplomatic Conference (1967) where Article 14bis(2)b had been considered to have a limited scope only, providing for a presumption of legitimation with respect to certain residual categories of authors contributing to the cinematographic work, and would not constitute a relevant precedent for the situation of audiovisual performers.

115. The Delegation of *Norway* added that Article 14bis of the Berne Convention was not automatically applicable to the principal authors and asked why performers should not be treated like principal authors. It suggested that the question of transfer of rights should be left to the national legislator. This view was shared by an observer from the *Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants* (ARTIS GEIE) who insisted also on the exclusive character of rights given to performers.

116. The Delegation of *China* emphasized the need of a proper balance between the interests of audiovisual performers and those of producers, and said that the proposal by Japan as well as the proposal of countries of Latin America and the Caribbean seemed acceptable.

117. The Delegation of the *European Community* pointed at the fact that the EC proposes to leave the question of transfer of rights to national legislation and not to include it in an international instrument on the protection of audiovisual performers. It pointed out that the WPPT was silent on this matter and advocated a solution taken at the national level and not in the treaty or protocol. The Delegations of *Belgium, the Czech Republic, Denmark, France, Greece, Italy, Norway, Portugal, the United Kingdom and Switzerland* were also in favor of leaving this question out of the protocol; they indicated that, in certain countries, transfer of rights was dealt with through contracts, in others by law, and that it would be difficult to impose one or the other approach to all countries. Observers from the *Association of European Performers' Organisations (AEPO)*, the *International Literary and Artistic Association (ALAI)*, the *Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE)*, the *International Federation of Musicians (FIM)*, the *International Federation of Actors (FIA)*, the *Comité de Seguimiento "Actores, Intérpretes" (CSAI)*, and the *Ibero-Latin-American Federation of Performers (FILAIE)* supported the view of these Delegations. An observer from the *Comité de Seguimiento "Actores, Intérpretes" (CSAI)* added that, if ever a presumption of transfer was introduced, performers should retain remuneration rights. In respect of the rights of rental, broadcasting and communication to the public, these rights should initially be granted as remuneration rights, as performers could not exercise them individually.

118. The Delegation of the *United Kingdom* explained that in the United Kingdom the matter was ruled by contracts, not by legislation. Appropriate collective bargaining and contractual arrangements had been put in place. The intended Protocol to the WPPT dealt with rights. The matter discussed here concerned dealings in those rights; these were subject to contracts. A problem of international private law was touched here. In this area, international rules were in existence. Caution was required before trespassing into that area. The Delegations of *Italy, Denmark, France and Switzerland* associated themselves with this opinion.

119. The Delegation of *India* noted the differing practices in the larger film-producing countries and confirmed its earlier expressed opinion that a provision on transfer of rights was required. Such a provision was contained in Indian Copyright Law. The Delegation found the proposal by Canada interesting. But it would still have to be explored what was the situation when a film was produced with performers of various nationalities and shot in a third country.

120. The Delegation of *Australia* considered that, as there were enough Delegations wanting something on exercise or transfer of rights, something had to be done. Australia had no position on the proposals offering provisions on this matter. The Delegation offered comments on these proposals. The proposal of Japan was based on the suppression of rights, subject to agreement to the contrary. It further led to different consequences for distribution of films from country to country. It allowed a Contracting Party to relieve its own nationals from suppression of their rights within its own borders. The baseline of the proposal by Canada which the Delegation found interesting was no restraint on exercise of rights, which a Contracting Party could opt to make subject to a deemed transfer. It seemed that under that proposal a country was able to export its regime with regard to films made by its nationals, thus avoiding potential variation in performers' rights from country to country under the Japanese proposal. The Delegation noted that the beneficiaries of protection under the new instrument would be important in working out how far the Canadian proposal required a

Contracting Party, when recognizing such a regime adopted by another country, to apply it to performers who were nationals of that Contracting Party.

121. The Delegation of *Hungary* agreed that some provision on the matter was necessary, namely at least an Agreed Statement on the possibility to derogate from the rights of performers.

122. An observer from the *United Nations Educational, Scientific and Cultural Organization* (UNESCO) stressed the necessity to adopt solutions which meet with the aims of the possible treaty or protocol as well as with the reality and practice. He favored a flexible approach of an Agreed Statement, limited to cinematographic works.

123. An observer from the *International Federation of Musicians* (FIM) said that he was against national and international presumptions of transfer of rights. He pointed out that all rights were negotiable and that performers' statutory rights provided for a basis for fair bargaining as well as protection against third parties. Furthermore, any presumption in the protocol would create two levels of protection with the WPPT.

124. Observers from the *International Federation of Film Producers Associations* (FIAPF), the *International Federation of Associations of Film Distributors* (FIAD), and the *European Federation of Joint Management Societies of Producers for Private Audiovisual Copying* (EUROCOPYA) stressed that a presumption of transfer of rights was necessary and should be included in the treaty or protocol. They said that Article 14bis of the Berne Convention could be a reference, and that—referring to the proposal from the United States of America—the qualification of possible presumptions should be left to national legislation.

125. The *Chairman* summarized the debate as follows: The overall objective was to offer performers a good level of protection, without disrupting the functioning of the market. There were proposals from ruling nothing to mandatory rebuttable presumptions. The lowest level of regulation would be no clause, but maybe an Agreed Statement. The question was what level of freedom should be left to Contracting Parties. The discussion had to continue, in particular on the international functioning of any solution. The meeting of a group of consultants to be held at WIPO headquarters from December 16 to 18, 1998, might be very useful. Some refinement of the proposed models existing was possible.

#### Application in time

126. The *Chairman* invited to discuss the issue of the application of the new instrument to existing performances, which included the question of transitional rules.

127. The Delegation of the *Republic of Korea* said that it agreed with the proposal of Brazil, as contained in document SCCR/1/7, not to apply the Protocol to performances given or audiovisual fixations made before the entry into force of the Protocol.

128. The Delegation of *Brazil* observed that the problem was linked with other still unresolved questions.

### Summary of discussions on Protection of Audiovisual Performances

129. The *Chairman* summarized deliberations as follows: The Standing Committee had made clear progress and a step forward. Some matters had been thoroughly analyzed for the first time. The meeting had a very positive outcome. All discussions had been constructive and reflected an active interest of participants in the subject matter. All regions felt that this matter was important. All proposals reflected a high level of minimum rights. The main issues yet to be resolved were national treatment and the transfer of rights. The work was now more advanced than the substantive preparation for the WCT and the WPPT had been in February 1996.

### **PROTECTION OF DATABASES**

130. The *Chairman* gave an introduction and referred to the documents SCCR/1/INF/2, SCCR/1/INF/3 and SCCR/1/INF/3 Add. He stated that the discussion had revealed so far that there was no uniform opinion as to whether any *sui generis* protection should be established in the field of databases. He suggested that the delegations concentrate in the debate on the need and justification of the different systems of protection of databases, as well as on the nature, extent and impact of them and their applications, particularly concerning access to information.

131. The Delegation of the *European Community* introduced its proposal, contained in document SCCR/1/INF/2. It explained that the European Directive of 1996 had been created to provide an incentive for making, investing in, marketing and disseminating databases. Several alternative options of protection were considered in the preparatory studies, including protection by copyright, protection by unfair competition and protection by contractual agreements. At the end, the European Community had opted for a *sui generis* protection qualified as a true assignable exclusive intellectual property right by nature, clearly limited in its scope and limited also in its duration.

132. The Delegation made some remarks about the impact of its *sui generis* system. It stated that the EC had great expectations in the positive economic impact of this right in the Community. Those EC Member States which already provided for the protection for investment in a database prior to the adoption of the EC Directive had very good experience with such protection. Negative consequences had been avoided by some exceptions to the rights granted, some clear conditions for the protection and its limited duration. It expressed its disposition to clarify any question and to share experience with all the participants.

133. The Delegation of *Germany* mentioned that its country had been one of the first Member States of the European Community to implement the Databases Directive and to include related changes in its copyright law in January 1998. It informed that up to now the new norms had not had negative reactions; on the contrary there had been a very good support, for the reasons expressed by the Delegation of the European Community. It suggested that the proposal should be further considered by the Standing Committee in 1999 in order to adopt a new treaty on databases in a *sui generis* way.

134. The Delegation of *Switzerland* believed that establishing an international system to protect non-original databases must be an important future work; however, there was no single solution to bridge the legal gaps. There was a need of taking into account all the different possibilities that had been presented. It pointed out that an international instrument which provided a certain degree of flexibility for Member States that allowed them to choose the way they wished to implement was the most likely to succeed. It referred to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms as a good example.

135. The Delegation of *Japan* referred to its proposal presented in document SCCR/1/INF/2. It stressed that the production and distribution had become much easier than before, electronic distributors of information with significant economic value had been growing and the need of protection of investment for the production and maintenance of databases had been increasing significantly. It said that a possible new national and international system of protection of databases had been considered by the Japanese Copyright Council of the Agency of Cultural Affairs and the Industrial Council of the Ministry of International Trade and Industry. The possibility of protecting databases by a neighboring rights system had been considered by the Copyright Council, while protection by misappropriation and unfair competition provisions had been considered by the Industrial Council. Discussions on this matter and related issues were continuing.

136. The Delegation of the *United States of America* pointed at the attention devoted by its country to the question of providing additional protection for databases. There had been several efforts during the past year at drafting legislation. In fact, a new draft law had been introduced in the Congress, and the administration as well as the Congress had worked to find out what kind of legislation could ensure certain relevant principles to be respected in that matter. Those principles included the following: Commercial databases developers should be protected from the commercial misappropriation of their database products. Any legislation on databases should be predictable, simple, minimal and transparent; it should include definitions and standards of behavior for database producers and users; it should not affect the established contractual relationships; and it should include exceptions in order to ensure that any effects on non-commercial research be minimal. Furthermore, databases generated by Government funding should not be placed under the exclusive control of private parties. Several congressmen had indicated their interest in pursuing a possible legislation on databases in the next Congress. Finally, the Delegation expressed its willingness to continue discussing the issue at the international level.

137. The Delegation of the *Russian Federation* believed that some actions related to the protection and retrieval of contents of databases, as well as unauthorized use with commercial purposes should be taken into account. It was advisable to study the position of the countries that had implemented specific systems. It supported the statement of the Delegation of *Switzerland* concerning the need for flexibility. It recalled that a successful example was the Treaty on Intellectual Property in Respect of Integrated Circuits. At present, consultations were going on in the Russian Federation with representatives of industrial circles regarding this matter.

138. The Delegation of *Uzbekistan* said that the principle of full and open exchange of information necessary for such aspects as the protection of life, environment and dealing with global problems should be fully required in any international regulation concerning the protection of databases. Particularly the free and unlimited exchange of meteorological data should be guaranteed.

139. The Delegation of *India* pointed out that proposals for the protection of databases had not taken into account adequately the needs of developing countries, particularly in the field of scientific development and education. Since databases were protected by copyright in India, there was little evidence that investment in databases creation had resulted hampered due to lack of protection. It emphasized the need to explore the possibility of protecting databases through the technology route as there had been significant developments on security of databases in cyberspace in recent times whereas the present proposal was predominantly based on earlier technologies. It stressed that consultations should continue at international and national level.

140. The Delegation of *Egypt* made reference to the views expressed by the Academy of Scientific Research in document SCCR/1/INF/2. The Delegation pointed out that the Egyptian national law on copyright provides protection for databases where the creativity criterion is applied. The Delegation raised the question of whether it was necessary to have an international system of protection for databases regardless of what existed at the present time in national laws, and whether all the options offered by the various systems of legal protection had been exhausted before the option of international protection in the form of copyright related provisions was contemplated. Furthermore, the Delegation drew the attention to the needs and requirements of the developing countries in the fields of education, culture, scientific research as well as the access to the necessary information in the field of meteorological databases. The Delegation pointed out that further consultations would be needed at the national and regional levels to study carefully the impacts of the protection of databases.

141. The Delegation of *Senegal*, speaking on behalf of the African Group, voiced the great interest that African countries had in the consideration of this important question. It did however mention that, given the constraints of development in the health, education and research fields in particular, there was a need to allow sufficient time for national consultations that might result in the holding of regional consultations for a greater amount of information. Then, still speaking on behalf of the African Group, the Delegation wondered whether there was a possibility of having a comparative list in which the various positions taken on the questions raised might be analyzed. With the same thing in mind, a study could be drawn up on the impact of *sui generis* protection for developing countries, especially the economic, social and legal fields.

142. The Delegation of the *United Kingdom* noted that in September 1997 no European country had implemented yet a working system of *sui generis* protection of databases. The United Kingdom was one of the first countries in implementing in January 1998 the Directive on databases and it had successfully combined the new *sui generis* protection with the copyright system. Those systems were complementary and certainly not incompatible, and so far, no negative effects had been reported, specially none concerning the access to meteorological and scientific data. It invited developing countries to consider if their national

systems protected databases sufficiently, and if not whether a new *sui generis* system of protection could be implemented.

143. The Delegation of *Brazil* noted that its country had difficulties in accepting some concepts contained in the proposals presented, particularly those referred to substantial investments, as well as the way of establishing criteria for enabling the renewal of protection of non-original databases. It supported what had been pointed out by the Delegation of Egypt. It raised the question of whether currently there were sufficient incentives in national legislation to invest in databases and make use of them without having additional protection from intellectual property. It also stressed the importance of organizing regional meetings to discuss the topic.

144. The Delegation of *Australia* pointed out that, after the consultations undertaken in Australia, opinions remained divided on the appropriateness of a *sui generis* regime of protection of databases domestically and internationally. A big concern had been shown by the scientific community, and it had been also mentioned that there might be potential impact on competition law that might bring about monopoly situations. It recalled the background of the European Directive on Databases and noted that there was no doubt that it was an answer to the European Community's Member States needs, but declared that it was not very sure that it might be the answer for its country, since the Australian government had not received any request from the industry for additional protection under its law.

145. So far as some countries maintained that there was a need for new international protection, the Delegation underlined that there were five principles that the Australian Government suggested should be taken into account: i) clear documentation should be prepared, specifying where protection had failed and which databases communities supported new protection; ii) certainty of rules was necessary as the context seemed to be commercial; iii) supremacy of the competition regime should be clearly recognized; iv) limitations of rights, such as for non-commercial, scientific and educational uses should be clarified; v) any international treaty should provide flexibility to the countries for national implementation of their obligations.

146. The Delegation of *Kenya* supported the statement made by the Delegation of Senegal and informed that its Government had received a memorandum from the Kenyan Academy of Science in 1996, asking not to support any specific legislation on protection of databases. Consultations would be organized for all circles involved, specially the scientific community, but for the time being it was not likely to obtain support for an international treaty.

147. The Delegation of *Ghana* noted that some national meetings had been organized in Ghana on the protection of databases with the participation of the scientific community and research institutions. The national copyright agency had set up an interagency committee to collect views and had organized various meetings. The Delegation reaffirmed the commitment to continue discussing this topic.

148. The Delegation of *Sweden* supported the Delegation of European Community and noted that since 1960 Sweden had a protection system of databases, original or non-original which had functioned very well. For 25 years that *sui generis* system had never presented negative



and unfair consequences; no complaints had been received by the government from the meteorological or scientific sectors of the society concerning this particular kind of protection.

149. The Delegation of *Benin* considered an international treaty a difficult matter that should be studied in a very patient and calm manner. It fully supported the statement made on behalf of the African Group, and stressed that it was necessary to leave countries the necessary time to study the matter properly, as well as to organize regional consultations on the matter.

150. The Delegation of *China* noted that the laws in Hong Kong included appropriate legislation in respect of databases. A few years ago, a court case had been presented in China and much discussion had arisen in the field of non-original databases. The case had been settled on the basis of unfair competition law, but not under current copyright law. It added that for formulating a new legal system on the protection of databases it was necessary to coordinate the interests of the makers of databases and the users without forgetting the interest of the society. It added that problems in this field should be solved through national laws first, and then an international treaty could be prepared. It considered however that an international treaty was premature, at present. Studies on the different national experiences and discussions must be accomplished, particularly with educational institutions, libraries and research institutions.

151. The Delegation of *Jamaica* expressed its concern about the proposed *sui generis* protection of databases in developing countries at an international level. It was necessary to determine the national and international impact of an international treaty taking into account the special situation of developing countries, in particular the smaller economies. It asked WIPO to support Caribbean and Latin American Countries in regional consultations and to study the impact of a possible treaty on developing countries.

152. The Delegation of the *Republic of Korea* considered that the Copyright Law was very comprehensive in protecting databases. Some cases presented at the Korean courts confirmed this, as well as the copyrightability of electronic databases. It expressed its readiness to continue to study the proposed *sui generis* system of protection.

153. The Delegation of the *Philippines* recognized that information had become a vital and dynamic component of cultural, economic and technological development of countries. While due recognition should be given to the efforts and investments of database producers, the Delegation invoked that any future work in the area at the international level should take into account the social costs and consequences of a new legal system of protection of databases, specially those referred to as non-original ones. Serious consideration was necessary along the principles outlined by the Delegation of Australia.

154. The Delegation of *Indonesia* believed that current problems in the protection of databases should be studied in a very careful, comprehensive and fair manner. It stressed the importance of finding a solution which would guarantee an appropriate balance between the needs of developed and developing countries. A *sui generis* system of protection of databases was not considered convenient for the present; it expressed, however, its willingness to continue discussion at national and regional meetings.

155. The Delegation of *Belgium* referred to the recent entering into force in its country of a new law on the protection of databases of August 1998 which had transposed the European Directive Databases. The new law had taken into account the interests of private, educational, scientific and librarian sectors and included exceptions concerning their activities to balance their interests with the interests of databases manufacturers.

156. The Delegation of *Argentina* noted the same difficulties as those expressed by the Delegation of Brazil. It pointed out that substantial investments in certain countries might be considered small investments in other countries and that the proposed renewal of the term of protection involved uncertainty concerning the extent of protection. Propuso que se siguiese el modelo de protección del Convenio Fonogramas que permite a los estados elegir la forma de protección.

157. The Delegation of *Mexico*, speaking on behalf of the Group of Countries of Latin America and the Caribbean, supported what had been stated by the Delegations of Brazil, Jamaica and Argentina. It expressed the interest of the Group in participating in all the fora on this topic. It also supported the statement of the Delegations of Senegal, on behalf of the African Group, and of Kenya, concerning the organization of regional consultations meetings that would help to clarify the interests involved and the options available.

158. An observer from the *World Meteorological Organization (WMO)* referred to the submission of WMO as contained in document SCCR/1/INF/3 and to the importance of taking into account some principles for the international databases protection mechanism that had already been underscored by different delegations. He said that the principle of the full and open exchange of data and information vital to the protection of life and property, safeguarding the environment and addressing global issues should be a recognized principle and contained in any international database protection mechanism. In particular, the free and unrestricted exchange of meteorological and related data should be assured, especially those relating to natural disaster mitigation activities such as severe weather warnings. Such international exchange of meteorological data and products, coordinated by WMO, also assisted in safeguarding the environment such as in relation to climate change and ozone layer depletion; and contributed to sustainable development in diverse areas such as agriculture, transport, energy, water resources, health and tourism.

159. The observer noted that a WMO Resolution had been adopted on the Organization's policy and practice for the exchange of meteorological and related data and products including guidelines for commercial meteorological activities, in respect of "*broadening and enhancing the free and unrestricted international exchange of meteorological and related data and products.*" He highlighted the meaning of certain terms used in that Resolution, particularly essential data and products and additional data and products. The former were those necessary for the provision of basic services and should be exchanged, according to the Resolution, without any condition; the latter could be exchanged with certain conditions attached, specially for commercial purposes. He appealed that any consideration of a new legal instrument concerning database protection be complementary to the above-mentioned Resolution.

160. An observer from the *United Nations Educational, Scientific and Cultural Organization* (UNESCO) welcomed the active participation of the scientific community in the debate on the nature and extent of protection of investment in non-original databases. He felt that it was in the interest of modern societies and international cooperation to foster private investments in production and dissemination of non-original databases. He noted that there was no consensus about the urgent need of international norms nor about the nature and extent of protection to be envisaged. He was of the opinion that any international system of protection should take into account the specificity of general interest databases produced through the financial support of States or intergovernmental organizations and the specific needs of the scientific community. He expressed his full support for what had been stated by the observer from the WMO. The challenge was to avoid setting up a system for the protection of legitimate interest of producers of databases that endangered the freedom of research and exchange of information.

161. An observer from the *Japan Electronic Industry Development Association* (JEIDA) strongly opposed to the introduction of a *sui generis* system, mainly because circulation of databases might be endangered and hampered due to an excessive protection. It was appropriate to allow only the necessary and minimal restrictions to ensure competition in the databases market. He proposed that the various countries consider what kind of databases needed a new protection, taking into account the existing protection granted by civil, unfair competition and copyright laws.

162. An observer from the *International Association for the Protection of Industrial Property* (AIPPI) said that it was necessary to concentrate on what could be the immediate needs that had to be satisfied. He supported the statements made by the Delegations of Australia and Switzerland concerning the protection against piracy. He expressed the view that there was no need to wait for the establishment of national laws on databases before starting work on an international instrument.

163. An observer from the *International Publishers' Association* (IPA) and the *International Publishers Copyright Council* (IPCC) stressed that the justification of a *sui generis* system of protection of databases was that they were central for establishing the global information infrastructure. He noted that countries which required a low level of originality for copyright protection, such as the United Kingdom, had been able to attract a flourishing database industry and that a specific protection of non-original databases was even more important in countries which required a high level of originality for copyright protection. He pointed out that countries with a low level of protection of databases would not be able to export their databases without an instrument equivalent to the *sui generis* protection regime. He was of the view that an umbrella approach could be appropriate, as proposed by the Delegation of Switzerland. He added that the producers of databases and the scientific community represented by ICSU had engaged a dialogue to examine solutions to the concerns of scientists and to explore to what extent the protection of databases should be limited in view of the public interest.

164. An observer from the *European Alliance of Press Agencies* (EAPA) endorsed what had been stated by the Delegation of the European Community and by the preceding observer and stressed the need for a *sui generis* protection system.

165. An observer from the *International Federation of Library Associations and Institutions* (IFLA) stated that there was no unequivocal evidence that new international norms on databases were necessary, considering the existing appropriate mechanisms of protection and the potential severe effects on science, education, research, innovation and access to information that such norms could give rise to. She fully supported the statement of the Delegation of Australia.

166. An observer from the *International Federation of Reprographic Rights Organisations* (IFRRO) expressed full agreement with the document presented by the International Publishers Copyright Council (IPCC). She said that the scientific world of Nordic countries, particularly in Finland, had not complained or raised any concern either about the national *sui generis* protection system of databases during the almost 30 years of its implementation, or about the recent European Directive.

167. An observer from *Software Information Center* (SOFTIC) was of the opinion that the interests of database producers and users had to be taken into account. Unfair competition prevention law could cope with the rapid progress of the information technology. In his view, the duration of the protection was a very important aspect because, if it was fixed appropriately it might favor free flow of information.

168. An observer from the *International Council for Science* (ICSU) spoke about the recent developments in the United States of America concerning the protection of databases. He agreed that some legal incentives were necessary against piracy, but also believed that this had to be balanced to avoid an overprotective legislation, harmful to science and added value users. He pointed out that in the United States of America, the Administration had taken a very strong position on that issue; the General Counsel of the United States Department of Commerce had been of the view that the proposed *sui generis* system of protection was considered anticompetitive and probably anticonstitutional. He asked the delegations to consult their national scientific institutions before any action in respect of databases protection.

169. The Delegation of the *United States of America* said that the previous intervention had been inexact. The General Counsel of the United States Department of Commerce had not considered the proposed *sui generis* system of protection in the terms expressed. It was another matter that the Administration was concerned about the impact of any new legislation on scientific research and library activities. The Delegation made copies of the communication mentioned above available to the Standing Committee after having spoken.

170. The *Chairman* concluded that the discussion reflected a clear evolution of the international debate on a specific protection system for databases and there were interesting indications of on-going study and consideration of the matter. Several delegations had given information about consultations at national level and many of them had indicated that they were ready to participate actively in any further work on this matter. Of course, many concerns had also been expressed specially regarding the interests of scientific research and education, the general public interest concerning access to information, the general interests of developing countries, as well as the specific interest in a free and open exchange of meteorological data. Wishes for further studies and examinations on this matter had been expressed and many delegations were of the view that more time was needed for consideration of this matter. Some delegations had spoken about an international legal framework for the

protection of databases, which would be flexible enough and could accommodate different systems of protection at the national level. There had been a suggestion that regional consultations should be organized. Such consideration would offer the possibility for studying systematic approaches to be developed in this matter. Finally, it had been recommended that this subject should be kept on the agenda of any future work of the Standing Committee.

## **PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS**

171. The *Chairman* recalled that protection of the rights of broadcasting organizations had been raised several times in international fora, including the meetings preparing the WCT and the WPPT, and at the international fora organized by WIPO in Manila in 1997 and in Cancun in 1998. For the present discussion, the International Bureau had prepared a descriptive document (SCCR/1/3) and drafts prepared by non-governmental organizations had been made available to the members of the Committee. He suggested that only one discussion round take place, dealing with the questions: (i) whether continued work should be undertaken as regards the protection of broadcasting organizations; (ii) under which forms such work should proceed; and (iii) what further information and preparations would be required for such continued work.

172. The Delegation of *Switzerland* stated that broadcasters had been neglected when the other related rights were brought up-to-date. The WIPO international fora had helped identifying relevant issues, and a better protection was necessary to help fight piracy while at the same time striking the right balance between the different interested groups. The work should be undertaken by the Standing Committee or a committee of experts based on proposals from governments, for which a time limit should be decided.

173. The Delegation of *Argentina* spoke on behalf of itself and some of the countries of Latin America and the Caribbean since the Group had not yet reached a common position. It referred to the international fora where relevant issues, including the interests of producers of cable programs, had been identified and found that it was time to look at these issues at the international level. Broadcasting was by nature international, and there was an alarming proliferation of unlicensed broadcasting stations, in particular in Latin America and Asia, which occupied airwaves and also harmed the interests of authors, performers and producers. The work should continue based on proposals in treaty language from governments, for which a deadline should be determined.

174. The Delegation of *Mexico* supported the views of the Delegation of Argentina and other countries of Latin America and the Caribbean and pointed at the danger of having protection established only through bilateral and trade treaties which would lead to a difficult international situation.

175. The Delegation of the *European Community* pointed out that broadcasting organizations were granted rights in many countries and also in several European directives, and it stated that, in recognition of broadcasters' contribution to culture, there was a clear need for rights as an incentive for investment and quality and as a tool in the fight against piracy. This was mirrored in international treaties, such as the Rome Convention, but a general update was overdue. The market for broadcasts was worldwide, and so was the problem of piracy.

Moreover, new broadcasting technologies had appeared, such as satellite broadcasting, cable distribution, encryption and webcasting. A new international instrument should respect the various different systems of protection and obtain balance between the interests of broadcasters, users and program contributors.

176. The Delegation of *Japan* affirmed that the international protection of broadcasters should be looked at. Discussions at national level had started in its country, but had not yet been concluded. While broadcasting was becoming ever more complicated due to technological development, simple norms were called for, and the Delegation found in this respect that the proposal from the National Association of Commercial Broadcasters in Japan (NAB-Japan) deserved serious consideration.

177. The Delegation of *Uruguay* suggested that the protection of broadcasting organizations be included in the future work of the Standing Committee. To enable a structured debate, it suggested that analytical tables of the issues raised should be prepared by the International Bureau.

178. The Delegation of *Norway* was of the opinion that all three traditional groups of owners of related rights deserved to have their protection examined and updated in view of technological progress. It supported that the Standing Committee started discussions on the issue at its next session, based on the items brought up at the WIPO international fora.

179. The Delegation of *Jamaica* supported the statements of the Delegations of Argentina and Mexico in relation to continued interest in furthering the work on this matter and stressed that the work should be advanced at the regional and international levels.

180. The Delegation of *Senegal* stated that its Government was working seriously to improve the conditions of broadcasters and it participated in a regional committee of reflection which was collecting their views. The African Group was ready to cooperate on securing a better protection for broadcasters. Speaking as the Chairperson of the African Group of the International Confederation of Societies of Authors and Composers (CISAC) the delegate expressed the hope that also broadcasters would strengthen their cooperation with collective management organizations by fulfilling their obligations as users of the protected repertoire.

181. The Delegation of the *United Kingdom* agreed that work on the issue should continue with the aim of updating and adapting the Rome Convention protection in the light of the technological development. Many countries already granted a stronger protection than the Rome Convention, and among the rights that should be granted were a comprehensive reproduction right and appropriate rights regarding satellite broadcasting and cable retransmission. The Delegation suggested that forthcoming discussions should be based on submissions from governments.

182. The Delegation of *Canada* referred to the room document from broadcasting unions and associations and stated that its Government had not yet reached a position regarding the protection in relation to redistribution in cable and community antennae systems and the protection regarding end users, such as the use of radio or television sets in public places. In this respect, it wished to consult its national cable industry and representatives of end users. The Delegation pointed at the desirability of having the cable distribution industry represented

at meetings of the Standing Committee. It also mentioned that it might in some respects be necessary to distinguish between free over-the-air broadcasts and pay radio and television.

183. The Delegation of the *United States of America* pointed out that broadcasters in its country enjoyed substantial protection under copyright and communication law. At the international level, piracy and new technology made it necessary to look at the issue, and the room documents were interesting and merited further examination. The Delegation underlined that progress on the protection of audiovisual performers should not be held up by this new issue.

184. The Delegation of *Australia* supported further work on the question of improving the rights of broadcasters internationally. A strong protection was granted in its country, but signal piracy had not been raised as a major problem. New technology, however, could change that situation. The Delegation reserved the possibility to regulate in national law certain cable retransmissions in urban and remote areas. It supported the suggestions that work should continue in WIPO, based on government submissions.

185. The Delegation of *Benin* stressed the special situation in Africa where most broadcasters were government organizations, but it remained a problem that some did not pay for rights to collective management organizations. While the Delegation found it difficult to support rights for those who did not respect the rights of others, it agreed with the Delegation of Switzerland in that a proper balance should be found between the rights of broadcasters and the interests of users. It supported that work should continue, based on government submissions.

186. The Delegation of *Bangladesh*, speaking on behalf of the Asian Group, stated that the countries of the Group would follow the process and participate actively. Almost all the countries in the region were party to the TRIPS Agreement and quite a few had already national legislation protecting the rights of broadcasting organizations while others were preparing it. The Delegation called for the continued assistance of WIPO in this process. It stressed the need to discuss the issue in detail at national level and in regional consultations, taking into account the views presented at the present meeting. It was not convinced that piracy was a major issue, but it was willing to listen to other delegations.

187. The Delegation of *India* shared the sentiments of the Asian Group and pointed out that the legislation of its country conformed to the Rome Convention and the TRIPS Agreement. It found the room documents useful for the suggested national and regional consultations.

188. The Delegation of the *Philippines* mentioned that its country had shown its keen interest in the issue by hosting the Manila forum and that it supported the position of the Asian Group.

189. The Delegation of *China* referred to the existing protection of broadcasting organizations in its national legislation as well as in the Rome Convention and expressed full understanding of their wishes to have a new international treaty. Consideration should be given to the questions of (i) what kind of new rights they would need to be able to continue operations in the context of new technology and (ii) how the balance could be kept between the rights of broadcasters and the rights of authors, performers and producers of phonograms. The Delegation would study the issue closely, consult with the relevant organizations in its country and monitor the outcome of regional consultations. The member of the Delegation

from the Hong Kong Special Administrative Region added that, in that Region, both terrestrial and satellite broadcasts enjoyed protection under copyright, covering also technological measures and rights management information, as set out in the WCT and the WPPT.

190. An observer from the *European Broadcasting Union* (EBU) referred to the Manila and Cancun fora and the room paper with the proposal of broadcasting unions and associations. She stressed that the rights of broadcasters were directed against pirates, and the stronger they were the more they would also benefit content owners. The Rome Convention reflected its era, before color television, sound and video recorders, cable and satellites, when there were relatively few broadcasters and almost no piracy. The TRIPS Agreement granted an even lower level of protection, and a new multilateral treaty was urgently needed. Copyright protection granted a certain help, but, in relation to unprotected content, or content not owned by the broadcasters, only related rights were sufficient.

191. An observer from the *International Federation of Phonographic Industry* (IFPI) agreed that new transmission techniques would impinge on the rights of all groups of right owners, including broadcasters, unless issues such as technological measures of protection, rights management information and new forms of piracy were addressed. It was, however, necessary to analyze whether protection should extend to every moment of a broadcast or to the assembly and transmission of programs over a certain period of time. In the former case, broadcasters would get rights on top of the rights in the content. The proposals from the broadcasters went further than just preventing piracy, and he questioned why broadcasters should enjoy protection for aftermarket exploitation when they were not obliged to negotiate the use of those products of performers and producers of phonograms which they wanted to use.

192. An observer from the *International Association of Broadcasting* (IAB) referred to the discussions at the Manila and Cancun fora where it had been made clear that the Rome Convention no longer offered sufficient protection, and that new international standards should be established by WIPO. He referred to the room documents, including the memorandum from his organization, and supported the establishment of a new treaty dealing with all the inequities of the present situation.

193. An observer from the *National Association of Commercial Broadcasters in Japan* (NAB-Japan) stated that the room paper from his organization reflected the urgent need to update the protection of broadcasting organizations. It was now possible for anybody to retransmit a broadcast globally over the Internet and this opened up for completely new forms of piracy. He emphasized the creative and social role of broadcasters and stressed that the updating of their protection would not conflict with the rights of others.

194. An observer from the *Electronic Industries Association* (EIA), speaking also on behalf of the *Digital Media Association* (DMA), pointed at the need for protecting Internet broadcasters that broadcast original programming. They were changing the picture of broadcasting by transmitting not only sound and pictures but also interactive text. An explanation of this new development would be necessary to understand all aspects of the development, and he called for the adoption of new international norms to cover such broadcasters.



195. An observer from the *Association of Commercial Television in Europe* (ACT) appreciated the informed interest expressed by the members of the Standing Committee. Existing international protection failed to acknowledge present realities, and piracy set the investments in broadcasting at risk. He pointed out the exceptions in the TRIPS Agreement regarding most-favored-nation treatment and national treatment in relation to the rights covered by the Rome Convention and the absence of cable retransmission rights for broadcasters in the European Community.

196. An observer from the *Union of National Radio and Television Organizations of Africa* (URTNA) expressed gratitude to the African Group for its support and to WIPO for enabling discussions between African broadcasting organizations and collective management organizations. The broadcasters needed the support from those organizations, and her organization spared no effort in informing its members that they should respect their own obligations. Another observer from URTNA supported the establishment of a new international regime of protection to fight increasing piracy, and stressed that the Rome Convention had been overtaken by the technological development.

197. An observer from the *International Literary and Artistic Association* (ALAI) pointed out that the issue of broadcasting was different from that of databases because broadcasts were produced in all countries. The positive attitude shown by governments in the Standing Committee's discussions gave reason to believe in quick results, but it should be recalled that rights of broadcasters were intertwined with the rights of authors and owners of related rights. The impact of broadcasters' rights on those other rights should be weighed carefully.

198. An observer from the *North American National Broadcasters Association* (NANBA) joined the other representatives of broadcasters to advocate for an updated international instrument covering also new technology and Internet piracy. The Manila and Cancun fora had demonstrated how wholesale piracy took place, for example, with transmissions of the Olympic Games. Broadcasting rights were not at the expense of others, but gave a win/win situation. She stressed that the Standing Committee should move ahead quickly.

199. An observer from the *National Association of Broadcasters* (NAB) added that broadcasters in the United States of America had experienced signal piracy and a lack of sufficient remedies. The rights that had been introduced in 1982 had worked well. He urged that an international system of protection be established. Such protection should cover both the totality of transmissions and their components because everybody involved needed adequate remedies. He expressed concern about extending the rights to new groups of beneficiaries, such as webcasters, and stressed that the issue should not be linked to possible problems with other treaties.

200. An observer from the *International Federation of Musicians* (FIM) said that the discussion on broadcasters' rights should continue, and that the balance between the different groups should be kept in mind. It was a question whether near-on-demand broadcasting merited a better protection than the content, and, if performers were not granted any rights in that respect, protection of broadcasters would not benefit them. Also the question whether broadcasters' rights should cover minute parts of the transmissions needed detailed consideration.

201. An observer from the *International Federation of Film Producers Associations* (FIAPF) supported the wish of governments to see the work on the protection of the rights of broadcasting organizations begin, particularly regarding the fight against piracy. It should be ensured, however, that such new rights would not enable the blocking of the exercise of the rights of others, such as authors, performers and producers.

202. An observer from the *Asia-Pacific Broadcasting Union* (ABU) stressed that in the Asia-Pacific region broadcasting was the most important means of dissemination of culture and information. The Rome Convention was almost irrelevant in the present context, and he supported those who advocated increased protection. Free cable retransmission was a leftover from earlier times and no longer justified, particularly at present where convergence would lead to many new forms of transmission.

203. The *Chairman* concluded that there had been an overwhelming willingness to start considering enhanced rights for broadcasting organizations and that the Standing Committee should start discussing the substantial issues at its next session.

## **FUTURE WORK**

204. The Standing Committee made the following recommendations to the International Bureau of the World Intellectual Property Organization (WIPO):

“The Standing Committee should hold its next session from May 4 to 11, 1999,

- (a) Protection of audiovisual performances:
  - (i) the International Bureau should prepare a comparative table of the proposals submitted by Governments and the European Community as of February 28, 1999, including any possible revised proposals received before that date;
  - (ii) the International Bureau should convene regional consultation meetings on this issue to take place in Geneva on May 3, 1999;
  - (iii) the Standing Committee should discuss those issues about which it has been concluded at the first session of the Committee that further consideration was necessary;
  - (iv) the Standing Committee should assess its progress in order to conclude whether it would recommend to the relevant Assemblies of Member States of WIPO that a diplomatic conference be convened to consider an international instrument on the protection of audiovisual performances, the possible dates for such a diplomatic conference and the convening of a preparatory committee;
- (b) Protection of databases:

- (i) the International Bureau should organize regional consultations, whether in the form of regional meetings, seminars or round tables, during the second quarter of 1999;
  - (ii) the International Bureau should commission a study on the economic impact of the protection of databases on developing countries, with a special emphasis on the impact on least developed countries.
  - (iii) the basis for those consultations should be the possibly revised information document prepared by the International Bureau for the September 1997 Information Meeting (DB/IM/2) and the documents prepared for the first session of the Standing Committee, including the report of that session;
  - (iv) the issue should be carried forward to the agenda of the second session of the Standing Committee;
- (c) Protection of the rights of broadcasting organizations:
- (i) the International Bureau should organize regional consultations, whether in the form of regional meetings, seminars or round tables, during the second quarter of 1999, coordinated with the consultations provided for under item b(i), above;
  - (ii) the International Bureau should invite Member States of WIPO and the European Community, as well as intergovernmental and non-governmental organizations invited to the Standing Committee, to submit, by the end of March 1999, proposals and/or views in treaty language or in other form; these proposals and/or views should in advance be made available in suitable form to the Standing Committee;
  - (iii) the issue should be carried forward to the agenda of the second session of the Standing Committee.

## **ADOPTION OF THE REPORT AND CLOSING OF THE MEETING**

205. The Standing Committee adopted the report unanimously, after the Chairman, responding to comments made by a number of Delegations, had clarified that, in *litera b*) (ii) of the recommendations, the expression “economic impact” should be understood broadly, including economic, scientific, access to information, cultural and possible other societal impacts.

206. The Standing Committee also unanimously adopted, on the initiative of the Delegation of Mexico and on a proposal by the Chairman, a Declaration of Condolences concerning the victims of hurricane Mitch in Central America (Annex III).

207. The Delegation of *Belarus*, speaking also on behalf of Kyrgyzstan, the Republic of Moldova, the Russian Federation and Uzbekistan, informed the Standing Committee of a common request, submitted by these countries, that a WIPO Regional Seminar on the Protection of Databases and of the Rights of Broadcasting Organizations be held preferably in Tashkent, in April 1999, and, furthermore, that the study to be commissioned according to litera b) (ii) of the recommendations should also extend to the impact on CIS countries. The Delegation of *Lithuania*, speaking on behalf of the Group of Central European and Baltic States, informed the Standing Committee that the Group was also prepared to have a regional consultation on both afore-mentioned subjects already in the first quarter of 1999.

208. The Chairman closed the meeting.

[Annex I follows]

ANNEX I

**SPECIAL RULES OF PROCEDURE OF THE STANDING COMMITTEE ON  
COPYRIGHT AND RELATED RIGHTS (SCCR)**

Subject to the following Special Rules of Procedure contained in this Annex, the General Rules of Procedure of WIPO shall apply to the Standing Committee on Copyright and Related Rights.

All WIPO Member States, as well as Member States of the Berne Union that are not Member States of WIPO, shall be members of the SCCR. In addition, the European Community shall be a member of the SCCR, provided that it shall not have the right to vote.

Member States of the United Nations that are neither Member States of WIPO nor Member States of the Berne Union shall have observer status in the SCCR.

[Annex II follows]

ANNEXE II/ANNEX II

**LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS**

**I. MEMBRES/MEMBERS**

(dans l'ordre alphabétique français/  
in French alphabetical order)

**AFRIQUE DU SUD/SOUTH AFRICA**

Coenraad Johannes VISSER, Professor of Law, Department of Mercantile Law, University of South Africa, Pretoria

**ALLEMAGNE/GERMANY**

Volker SCHÖFISCH, Head, Copyright Section, Federal Ministry of Justice, Berlin

Jörg-Eckhard DÖRDELMANN, Head of Section, Supervision of Copyright Collecting Societies and Copyright, German Patent Office, Munich

**ANGOLA**

Sofia SILVEIRO PEGADO P. DA SILVA (Mme), premier secrétaire, Mission permanente, Genève

Mário de AZEVEDO CONSTANTINO, deuxième secrétaire, Mission permanente, Genève

**ARABIE SAOUDITE/SAUDI ARABIA**

Tariq ALMOHIZA, Copyright Department, Ministry of Information, Riyadh

**ARGENTINE/ARGENTINA**

Manuel BENITEZ, Ministro Plenipotenciario, Representante Permanente Adjunto, Misión Permanente, Ginebra

Hilda RETONDO (Sra.), Directora Nacional del Derecho de Autor, Ministerio de Justicia, Buenos Aires

Marta GABRIELONI (Sra.), Consejero, Misión Permanente, Ginebra

Gustavo SÁENZ PAZ, Asesor Legal, Asociación Argentina de Intérpretes (AADI), Buenos Aires

Martín MASSINI EZCURRA, Director Ejecutivo, Asociación de Teleriodifusoras Argentinas (ATA), Buenos Aires

Edmundo RÉBORA, Consejero, Buenos Aires

Luis Tomás GENTIL, Asesor Consejero, Asociación Argentina de Intérpretes (AADI), Buenos Aires

#### AUSTRALIE/AUSTRALIA

Christopher C. CRESWELL, Assistant Secretary, Intellectual Property Branch, Attorney-General's Department, Canberra

#### AUTRICHE/AUSTRIA

Günter AUER, Chief Public Prosecutor, Federal Ministry of Justice, Vienna

#### AZERBAÏDJAN/AZERBAIJAN

Sultan KAMRAN IMANOV, Chairman, Copyright Agency of the Republic of Azerbaijan, Baku

#### BANGLADESH

Zaman MOSUMDER, Secretary, Ministry of Cultural Affairs, Dhaka

Mahbub Zaman MAHBUBUZZAMAN, Director, Multilateral Economic Affairs (MEA), Ministry of Foreign Affairs, Dhaka

Khalilur RAHMAN, Counsellor, Permanent Mission, Geneva

#### BÉLARUS/BELARUS

Stanislau SUDARIKAU, Chairman, Copyright Office, Minsk

BELGIQUE/BELGIUM

Jérôme DEBRULLE, conseiller-adjoint, Ministère de la justice, Bruxelles

Marc TYSEBAERT, conseiller général, Ministère de la justice, Bruxelles

BÉNIN/BENIN

Samuel AHOKPA, directeur, Bureau béninois du droit d'auteur (BUBEDRA), Ministère de la culture et de la communication, Cotonou

BOLIVIE/BOLIVIA

Javier LOAYZA BAREA, Ministro, Misión Permanente, Ginebra

BRÉSIL/BRAZIL

Luiz Cesar GASSER, Second Secretary, Permanent Mission, Geneva

Otávio Carlos MONTEIRO AFONSO DOS SANTOS, Coordinator of Copyright, Ministry of Culture, Brasilia

BULGARIE/BULGARIA

Dimitar GANTCHEV, Deputy Permanent Representative, Permanent Mission, Geneva

BURKINA FASO

Asseta TOURE (Mme), directrice du Bureau burkinabé du droit d'auteur (BBDA), Ministère de la communication et de la culture, Ouagadougou

BURUNDI

Épiphanie KABUSHEMEYE-NTAMWANA (Mme), premier conseiller, Mission permanente, Genève

CAMEROUN/CAMEROON

Louis Balthazar AMADANGOLEDA, directeur du développement de la cinématographie et des productions audiovisuelles, Ministère de la culture, Yaoundé



Jean-Marie NJOCK, chargé d'études, Cellule juridique, Ministère de la culture, Yaoundé

Jean DJOUNKENG, chargé d'études, assistant à la Division des affaires juridiques et des traités, Ministère des relations extérieures, Yaoundé

Salomon Enoma TATAH, Ministère des relations extérieures, Yaoundé

#### CANADA

Bruce COUCHMAN, Legal Adviser, Intellectual Property Policy Division, Department of Industry, Ottawa

Edith ST-HILAIRE (Ms.), Policy Analyst, Copyright Policy Directorate, Department of Canadian Heritage, Ottawa

Natalie GIASSA (Mrs.), Senior Policy Analyst (Legal), Intellectual Property, Information and Technology Trade Policy Division, Department of Foreign Affairs and International Trade, Ottawa

Quan-Ling SIM, First Secretary, Permanent Mission, Geneva

#### CHILI/CHILE

Alejandro ROGERS, Consejero, Misión Permanente, Ginebra

#### CHINE/CHINA

SHEN Rengan, Deputy Commissioner, National Copyright Administration of China (NCAC), Beijing

LIU Bolin, Director, Legal Division, National Copyright Administration of China (NCAC), Beijing

LEUNG Ka Lai Ada (Ms.), Acting Assistant Director, Intellectual Property Department, Hong-Kong Special Administrative Region

#### COLOMBIE/COLOMBIA

Camilo REYES RODRIGUEZ, Embajador, Representante Permanente, Misión Permanente, Ginebra

Amparo OVIEDO ARBELAEZ (Sra.), Ministra Consejera, Misión Permanente, Ginebra

Gustavo Adolfo PALACIO CORREA, Jefe, División Legal, Dirección Nacional de Derecho de Autor, Santa Fe de Bogotá

María Eugenia PENAGOS (Sra.), Presidente, Sociedad de Gestión Actores, Asesora de la Delegación, Santa Fe de Bogotá

#### COSTA RICA

Nora RUÍZ DE ANGULO (Sra.), Embajadora, Representante Permanente, Misión Permanente, Ginebra

Christian GUILLERMET, Consejero, Misión Permanente, Ginebra

#### CÔTE D'IVOIRE

Jérôme WEYA, conseiller, Mission permanente, Genève

#### CROATIE/CROATIA

Gordan MARKOTIX, Counsellor, Permanent Mission, Geneva

#### CUBA

Natacha GUMÁ (Mrs.), Second Secretary, Permanent Mission, Geneva

#### DANEMARK/DENMARK

Johannes NØRUP-NIELSEN, Head, Copyright Division, Ministry of Culture, Copenhagen

#### ÉGYPTE/EGYPT

Mohamed Lotfi GOUDA, Counsellor, Ministry of Culture, Cairo

Alaa YOUSSEF, Second Secretary, Permanent Mission, Geneva

#### EL SALVADOR

Lilian ALVARADO-OVERDIEK (Sra.), Consejero, Misión Permanente, Ginebra

ÉMIRATS ARABES UNIS/UNITED ARAB EMIRATES

Mohamed Haji Ali AL-MULLA, Head of Publication, Ministry of Information, Dubai

ÉQUATEUR/ECUADOR

Federico MENESES ESPINOSA, Ministro, Misión Permanente, Ginebra

ESPAGNE/SPAIN

Pilar RODRIGUEZ-TOQUERO Y RAMOS (Srta.), Subdirectora General de Propiedad Intelectual, Secretaría de Estado de Cultura, Ministerio de Educación y Cultura, Madrid

Borja ADSUARA VALERA, Director del Gabinete del Secretario de Estado de Cultura, Ministerio de Educación y Cultura, Madrid

María Dolores BAÑARES ACEDO (Sra.), Asesora Jurídica, Subdirección General de Propiedad Intelectual, Secretaría de Estado de Cultura, Ministerio de Educación y Cultura, Madrid

Victor VAZQUEZ LOPEZ, Consejero Técnico de Propiedad Intelectual, Secretaría de Estado de Cultura, Ministerio de Educación y Cultura, Madrid

Juan Manuel SALAS, Consejero, Misión Permanente, Ginebra

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Robert Louis STOLL, Administrator, Office of Legislation and International Affairs, United States Patent and Trademark Office (USPTO), United States Department of Commerce, Washington, D.C.

Michael Scott KEPLINGER, Senior Counselor, Office of Legislative and International Affairs, United States Patent and Trademark Office (USPTO), United States Department of Commerce, Washington, D.C.

Marybeth PETERS (Ms.), Register of Copyrights, United States Copyright Office, Library of Congress, Washington, D.C.

Thaddeus J. BURNS, IPR Attaché, Office of the United States Trade Representative, Executive Office of the President, Geneva

James McGLINCHEY, Chief, Office of Intellectual Property and Competition, Trade Policy and Programs, Bureau of Economic and Business Affairs, Department of State, Washington, D.C.

Shira PERLMUTTER (Ms.), Associate Register of Copyrights for Policy and International Affairs, United States Copyright Office, Library of Congress, Washington, D.C.

Robert D. HADL, Consultant, United States Patent and Trademark Office (USPTO), United States Department of Commerce, Washington, D.C.

EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE/THE FORMER YUGOSLAV  
REPUBLIC OF MACEDONIA

Aco STEFANOSKI, Head, Division on Copyright and Related Rights, Ministry of Culture, Skopje

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Leonid PODCHIBIKHINE, Deputy Director of Department, Federal Institute of Industrial Property (ROSPATENT), Moscow

Alexei LYJENKOV, First Secretary, Permanent Mission, Geneva

Mikhail CHVEDOV, Attaché, Permanent Mission, Geneva

Alexandr BAVYKIN, Deputy Director, Legal Department, Ministry of Foreign Affairs, Moscow

FINLANDE/FINLAND

Jukka LIEDES, Special Government Adviser, Ministry of Education and Culture, Helsinki

Jorma WALDÉN, Government Secretary, Ministry of Education and Culture, Helsinki

Tiina RYHÄNEN (Mrs.), Secretary General, Copyright Commission, Ministry of Education and Culture, Helsinki

FRANCE

Hélène de MONTLUC (Mme), chef du Bureau de la propriété intellectuelle, Ministère de la culture, Paris

Michèle WEIL-GUTHMANN (Mme), conseiller (affaires juridiques), Mission permanente, Genève

GHANA

Bernard Katernor BOSUMPRAH, Acting Copyright Administrator, Copyright Office, Accra

Joseph Jainy Nwaneampeh, Minister-Counsellor, Permanent Mission, Geneva

GRÈCE/GREECE

Lambros Kotsiris, Professor of University, Member of the Board of the National Organization of Intellectual Property (OPI), Athens

GUATEMALA

Luis Alberto Padilla Menéndez, Embajador, Representante Permanente, Misión Permanente, Ginebra

Marco Antonio Palacios, Ministerio de Economía, Guatemala

Beatriz Méndez (Srta.), Tercer Secretario, Misión Permanente, Ginebra

HONDURAS

Gracibel Bu Figeura (Sra.), Consejero, Encargada de Negocios a.i., Misión Permanente, Ginebra

HONGRIE/HUNGARY

Péter Gyertyánfy, Director General, Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS), Budapest

István Lakatos, Third Secretary, Permanent Mission, Geneva

INDE/INDIA

Sumit Bose, Joint Secretary, Department of Education, Ministry of Human Resource Development, New Delhi

A.K. Chakravarti, Advisor, Department of Electronics, Electronics Niketan, New Delhi

Dilip Sinha, Minister, Permanent Mission, Geneva

INDONÉSIE/INDONESIA

Walter SIMANJUNTAK, Director of Copyright, Directorate-General of Copyright, Patents and Trademarks, Department of Justice, Tangerang

Umar HADI, Third Secretary, Permanent Mission, Geneva

IRAN (RÉPUBLIQUE ISLAMIQUE D')/IRAN (ISLAMIC REPUBLIC OF)

Morteza SHAFIEE SHAKIB, Director General, Cultural Studies and Research Center, Ministry of Culture, Tehran

Mohsen BAHARVAND, Third Secretary, Permanent Mission, Geneva

Seyed Ali MORTAZAVIAN, Expert, Ministry of Culture, Tehran

IRAQ

Nafia MAHDY, conseiller, chargé d'affaires a.i., Mission permanente, Genève

Gahlib F. ASKER, deuxième secrétaire, Mission permanente, Genève

Raad G. MOHMOUD, troisième secrétaire, Mission permanente, Genève

ISRAËL/ISRAEL

Mayer GABAY, Chairman, Copyright and Patents Laws Revision Committees, Ministry of Justice, Jerusalem

ITALIE/ITALY

Corrado MILESI FERRETTI, premier conseiller, Mission permanente, Genève

Vittorio RAGONESI, juge auprès de la Cour de cassation, Ministère de grâce et justice, Rome

Nelusco NATALI, Mission permanente, Genève

Mario FABIANI, conseiller juridique, Société italienne des auteurs et des éditeurs (SIAE), Rome

JAMAÏQUE/JAMAICA

Dianne DALEY (Ms.), Director, Copyright Unit, Ministry of Commerce and Technology,  
Kingston

JAPON/JAPAN

Shigeki SUMI, Counsellor, Permanent Mission, Geneva

Mikiko SAWANISHI (Ms.), Deputy Director, International Copyright Division, Copyright  
Office, Agency for Cultural Affairs, Tokyo

Tomohiro KANEKO, Deputy Director, Intellectual Property Policy Office, Industrial Policy  
Bureau, Ministry of International Trade and Industry, Tokyo

Kyoko KIMURA (Ms.), Deputy Director, Culture and Recreation Industries Division,  
Consumer Goods and Service Industries Bureau, Ministry of International Trade and Industry  
(MITI), Tokyo

Yukio YAMADA, Deputy Director, Broadcasting Policy Division, Broadcasting Bureau,  
Ministry of Posts and Telecommunications (MPT), Tokyo

Akinori MORI, First Secretary, Permanent Mission, Geneva

Hirotsune AIZAKI, Chief of Unit, Intellectual Property Section, Information Services  
Promotion Division, Ministry of International Trade and Industry (MITI), Tokyo

Kuninori TANAKA, Assistant Director, Culture and Recreation Industries Division, Ministry  
of International Trade and Industry (MITI), Tokyo

JORDANIE/JORDAN

Mohammed ABBADI, Deputy Director General, The National Library, Ministry of Culture,  
Amman

KENYA

Paul OMONDI-MBAGO, Registrar-General, Office of the Attorney General, Nairobi

Juliet M. GICHERU (Mrs.), First Secretary (Legal Affairs), Permanent Mission, Geneva

KIRGHIZISTAN/KYRGYZSTAN

Roman O. OMOROV, Director General, State Agency of Intellectual Property under the Government of the Kyrgyz Republic, Bishkek

LETTONIE/LATVIA

Ieva PLATPERE (Mrs.), Senior Officer for Copyright Matters, Ministry of Culture, Riga

LITUANIE/LITHUANIA

Romas VEDAS, Counsellor, Permanent Mission, Geneva

MADAGASCAR

Maxime ZAFERA, ambassadeur, représentant permanent, Mission permanente, Genève

Olgatte ABDYOU (Mme), premier secrétaire, Mission permanente, Genève

MALTE/MALTA

Michael BARTOLO, Ambassador, Permanent Representative, Permanent Mission, Geneva

Godwin WARR, Deputy Comptroller, Industrial Property Office, Valletta

Theresa CUTAJAR (Ms.), First Secretary, Permanent Mission, Geneva

Jacqueline AQUILINA (Ms.), First Secretary, Permanent Mission, Geneva

MAROC/MOROCCO

Mohamed ELOUFIR, secrétaire général, Bureau marocain du droit d'auteur (BMDA), Rabat

Abdellah BENMELLOUK, premier secrétaire, Mission permanente, Genève

MAURITANIE/MAURITANIA

Mohamedou DIABY, contrôleur des affaires administratives et financières, Ministère des mines et de l'industrie, Nouakchott



MEXIQUE/MEXICO

Fernando SERRANO MIGALLÓN, Director General del Instituto Nacional del Derecho de Autor (INDA), México

Arturo HERNÁNDEZ BASAVE, Ministro, Misión Permanente, Ginebra

José Luis CABALLERO LEAL, Asesor de la Delegación, Representante de la Cámara Nacional de la Industria de Televisión por Cable, México

Nicolas PIZARRO MACÍAS, Asesor de la Delegación, Representante del Grupo Televisa, S.A. de C.V., México

MONGOLIE/MONGOLIA

Bat-Ochir ERDENEBUGAN, Attaché, Mission permanente, Genève

NIGÉRIA/NIGERIA

Moses Frank EKPO, Director General, Nigerian Copyright Commission, Lagos

Nicholas Agbo ELLA, Third Secretary, Permanent Mission, Geneva

NORVÈGE/NORWAY

Bengt Olav HERMANSEN, Assistant Director General, Norwegian Ministry of Cultural Affairs, Oslo

Maria DUNA (Mrs.), Adviser, Norwegian Ministry of Cultural Affairs, Oslo

OUZBÉKISTAN/UZBEKISTAN

Abdulla ORIPOV, Chairman, Uzbek Republican State Copyright Agency, Tashkent

PAKISTAN

Mansur RAZA, Counsellor, Permanent Mission, Geneva

PARAGUAY

Rodrigo UGARRIZA, First Secretary, Permanent Mission, Geneva

PAYS-BAS/NETHERLANDS

Erwin Jan ARKENBOUT, Senior Legal Counsel, Directorate of Legislation, Ministry of Justice, The Hague

Elisabeth D.G. KIERSCH (Mrs.), Legal Adviser, Ministry of Justice, The Hague

Henk G.C. VAN DEN DOOL, First Secretary, Permanent Mission, Geneva

PÉROU/PERU

Bethy BERENSON (Srta.), Consejero, Misión Permanente, Ginebra

PHILIPPINES

Carmen G. PERALTA (Ms.), Officer-in-charge, Documentation, Information and Technology Transfer Bureau, Intellectual Property Office (IPO), Makati City

Ma. Angelina M. STA. CATALINA (Mrs.), First Secretary, Permanent Mission, Geneva

PORTUGAL

Nuno GONÇALVES, directeur, Cabinet du droit d'auteur, Ministère de la culture, Lisbonne

QATAR

Abdulla QAYED AL-AMADI, Head, Copyright Bureau, Doha

RÉPUBLIQUE CENTRAFRICAINE/CENTRAL AFRICAN REPUBLIC

Enoch KOTA-GUENEYORA, chargé de mission aux arts et à la culture, directeur du Bureau centrafricain de droit d'auteur (BUCADA), Bangui

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA

Chul Ki JU, Ambassador, Deputy Permanent Representative, Permanent Mission, Geneva

Won Joon KIM, Counsellor, Permanent Mission, Geneva

Chang Hwan SHIN, Deputy Director, Copyright Division, Ministry of Culture and Tourism, Seoul

RÉPUBLIQUE DE MOLDOVA/REPUBLIC OF MOLDOVA

Mihail CIU , Director General, State Copyright Agency of the Republic of Moldova, Kishinev

RÉPUBLIQUE DOMINICAINE/DOMINICAN REPUBLIC

Angelina BONETTI HERRERA (Sra.), Embajador, Representante Permanente, Misión Permanente, Ginebra

Pedro Nelson FELIZ MONTES DE OCA, Director General, Oficina Nacional de Derecho de Autor (ONDA), Santo Domingo

Ysset ROMÁN MALDONADO (Srta.), Ministro Consejero, Misión Permanente, Ginebra

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Hana MASOPUSTOVÁ (Mrs.), Chief, Copyright Department, Ministry of Culture, Praha

RÉPUBLIQUE-UNIE DE TANZANIE/UNITED REPUBLIC OF TANZANIA

Francis MALAMBUGI, Minister Counsellor, Permanent Mission, Geneva

ROYAUME-UNI/UNITED KINGDOM

Jonathan STARTUP, Director, Copyright Directorate, Department of Trade and Industry, The Patent Office, London

Roger KNIGHTS, Assistant Director, Copyright Directorate, Department of Trade and Industry, The Patent Office, London

Helen FRARY (Ms.), Third Secretary, Permanent Mission, Geneva

SÉNÉGAL/SENEGAL

Ndèye Abibatou Youm DIABE SIBY (Mme), directeur général, Bureau sénégalais du droit d'auteur (BSDA), Dakar

Khaly Adama NDOUR, deuxième secrétaire, Mission permanente, Genève

SINGAPOUR/SINGAPORE

Sivakant TIWARI, Senior State Counsel, Head, International Affairs Division, Attorney-General's Chambers, Singapore

Li-Choon LEE TAN (Ms.), Assistant Registrar of Trade Marks & Patents, Singapore

Yen-Ling LIEW (Ms.), Legal Counsel, Singapore International Media/Television Corporation of Singapore, Singapore

SLOVÉNIE/SLOVENIA

Andrej PIANO, Legal Counsel, Slovenian Intellectual Property Office (SIPO), Ljubljana

SUÈDE/SWEDEN

Henry OLSSON, Special Government Adviser, Ministry of Justice, Stockholm

SUISSE/SWITZERLAND

Carlo GOVONI, chef, Service juridique du droit d'auteur et des droits voisins, Institut fédéral de la propriété intellectuelle, Berne

THAÏLANDE/THAILAND

Montri KITTIWANGCHAI, Counsellor, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, Bangkok

Chulalak UDOMSAP (Ms.), Legal Officer, Technical and Planning Division, Department of Intellectual Property, Ministry of Commerce, Bangkok

TOGO

Komi Ametepe AYI, directeur général, Bureau togolais du droit d'auteur (BUTODRA), Lomé

TUNISIE/TUNISIA

Kamel MORJANE, ambassadeur, représentant permanent, Mission permanente, Genève

Ghazi JOMAA, conseiller, Mission permanente, Genève

URUGUAY

Carlos TEYSERA ROUCO, Presidente del Consejo de Derechos de Autor, Ministerio de Educación y Cultura, Montevideo

Pamela VIVAS (Sra.), Consejero, Misión Permanente, Ginebra

Gustavo VIGNOLI, Secretario General, Consejo de Derechos de Autor, Ministerio de Educación y Cultura, Montevideo

VENEZUELA

Magdaly SÁNCHEZ ARANGUREN (Sra.), Directora Nacional del Derecho de Autor, Caracas

YÉMEN/YEMEN

Hisham ALI BIN ALI, Under Secretary for Culture and Tourism, Sanaa

ZIMBABWE

Maxwell CHIKOROWONDA, Counsellor, Permanent Mission, Geneva

COMMUNAUTÉ EUROPÉENNE (CE)/EUROPEAN COMMUNITY (EC)

Jörg REINBOTHE, chef d'Unité "Droit d'auteur et droits voisins ainsi que les aspects internationaux", Direction générale "Marché intérieur et services financiers", Bruxelles

Egidio GUERRERI, administrateur, Unité "Droit d'auteur et droits voisins ainsi que les aspects internationaux", Direction générale "Marché intérieur et services financiers", Bruxelles

Roger KAMPF, premier secrétaire, Délégation de la Commission européenne, Genève

Keith MELLOR, administrateur principal, Secrétariat général du Conseil de l'Union européenne, Bruxelles

Ana RAMÍREZ FUEYO (Mme), administrateur principal, Secrétariat général du Conseil de l'Union européenne, Bruxelles

II. ORGANISATIONS INTERGOUVERNEMENTALES/  
INTERGOVERNMENTAL ORGANIZATIONS

ORGANISATION INTERNATIONALE DU TRAVAIL (OIT)/INTERNATIONAL LABOR  
ORGANIZATION (ILO)

Linda WIRTH-DOMINICÉ (Ms.), Specialist for Media, Culture, Graphical Sector, Geneva

ORGANISATION DES NATIONS UNIES POUR L'ÉDUCATION, LA SCIENCE ET LA  
CULTURE (UNESCO)/UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND  
CULTURAL ORGANIZATION (UNESCO)

Salah ABADA, chef, Section de la créativité et du droit d'auteur, Division de la créativité, des industries culturelles et du droit d'auteur, Secteur de la culture, Paris

ORGANISATION MARITIME INTERNATIONALE (OMI)/INTERNATIONAL  
MARITIME ORGANIZATION (IMO)

Ahmed ADIB, Director, Conference Division, London

ORGANISATION MÉTÉOROLOGIQUE MONDIALE (OMM)/WORLD  
METEOROLOGICAL ORGANIZATION (WMO)

Rodolfo A. DE GUZMAN, Special Assistant to the Assistant Secretary-General, Geneva

ORGANISATION MONDIALE DU COMMERCE (OMC)/WORLD TRADE  
ORGANIZATION (WTO)

Hannu WAGER, Counsellor, Intellectual Property and Investment Division, Geneva

LIGUE DES ÉTATS ARABES (LEA)/LEAGUE OF ARAB STATES (LAS)

Saad ALFARARGI, Ambassador, Permanent Observer, Permanent Delegation, Geneva

Samer SEIF EL-YAZEL, Third Secretary, Permanent Delegation, Geneva

Osman ALHAJJE, Attaché, Permanent Delegation, Geneva

Salah AIED, Attaché, Permanent Delegation, Geneva

II. ORGANISATION DE L'UNITÉ AFRICAINE (OUA)/ORGANIZATION OF AFRICAN UNITY (OAU)

Venant WEGE-NZOMWITA, Deputy Permanent Observer, Permanent Delegation, Geneva

III. ORGANISATIONS NON GOUVERNEMENTALES/  
NON-GOVERNMENTAL ORGANIZATIONS

Agence pour la protection des programmes (APP) :  
Cyril FABRE (juriste), Paris

Alliance européenne des agences de presse (EAPA)/European Alliance of Press Agencies (EAPA):  
Willy SCHAER (président, Copyright Committee), Berne  
Nathalie TISSOT (Mme) (conseiller juridique), La Chaux de Fond (Suisse)

American Bar Association (ABA):  
Ralph OMAN (Chairman, Authors' Committee), Washington, D.C.

Association américaine de marketing cinématographique (AFMA)/American Film Marketing Association (AFMA):  
Lawrence SAFIR (Chairman (Europe)), London

Association de gestion internationale collective des oeuvres audiovisuelles (AGICOA)/  
Association for the International Collective Management of Audiovisual Works (AGICOA) :  
Florence BERG (Mlle) (juriste), Genève

Association des organisations européennes d'artistes interprètes (AEPO)/Association of  
European Performers' Organisations (AEPO) :  
Xavier BLANC (secrétaire général), Bruxelles

Association des télévisions commerciales européennes (ACT)/Association of Commercial  
Television in Europe (ACT):  
Tom RIVERS (Legal Adviser), London

Association internationale de radiodiffusion (AIR)/International Association of Broadcasting  
(IAB):  
Andrés LERENA (Presidente, Comité Permanente de Derecho de Autor), Montevideo

Association internationale pour la protection de la propriété industrielle (AIPPI)/International Association for the Protection of Industrial Property (AIPPI):  
Gunnar W.G. KARNELL (membre, Comité exécutif, Faculty of Law, Stockholm School of Economics), Stockholm

Association littéraire et artistique internationale (ALAI)/International Literary and Artistic Association (ALAI):  
Herman COHEN JEHORAM (vice-président), Amsterdam

Association mondiale des journaux (AMJ)/World Association of Newspapers (WAN):  
Michel GODMER, Paris

Comité de Seguimiento “Actores, Intérpretes” (CSAI) :  
Abel MARTÍN VILLAREJO (Abogado, Profesor), Madrid

Confédération internationale des éditeurs de musique (CIEM)/International Confederation of Music Publishers (ICMP):  
Jenny VACHER-DESVERNAIS (Mrs.) (Director General), Paris

Confédération internationale des sociétés d’auteurs et compositeurs (CISAC)/International Confederation of Societies of Authors and Composers (CISAC):  
Éric BAPTISTE (secrétaire général), Paris  
Antonio DELGADO (Consejero Legal, Sociedad General de Autores y Editores), Madrid  
Ndéné NDIAYE (conseiller), Paris  
Ralph OMAN (conseiller juridique), Washington, D.C.

Conseil international des unions scientifiques (CIUS)/International Council of Scientific Unions (ICSU):  
Jerome Howard REICHMAN (Professor of Law), Paris

Copyright Research and Information Center (CRIC) :  
Masashi TANANO (Managing Director (GEIDANKYO)), Tokyo  
Shinji MATSUMOTO (Committeeman, International Committee; Executive Director (GEIDANKYO)), Tokyo  
Sameul Shu MASUYAMA (Adviser, Planning Department (GEIDANKYO)), Tokyo  
Takashi KAMIDE (Adviser, Federation of Music Producers of Japan), Tokyo  
Kotafu FURUKAWA (General Secretary, Japan Actors’ Union (JAU)), Tokyo

Electronic Industries Association (EIA) :  
Seth D. GREENSTEIN (Counsel, Digital Media Association (DMA)), Washington, D.C.



Fédération européenne des sociétés de gestion collective des producteurs pour la copie privée audiovisuelle (EUROCOPYA)/European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA):

Nicole LA BOUVERIE (Mme) (directeur général), Paris  
Yvon THIEC, Bruxelles

Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/Ibero-Latin-American Federation of Performers (FILAIE) :

Luis COBOS PAVON (Presidente), Madrid  
Miguel PÉREZ SOLÍS (Asesor Jurídico), Madrid

Fédération internationale de la vidéo (IVF)/International Video Federation (IVF):

Charlotte LUND THOMSEN (Ms.) (Director General), Brussels  
Isabelle ROUDARD (Mrs.) (Copyright Consultant), Brussels  
Théodore SHAPIRO (Lawyer), Brussels

Fédération internationale de l'industrie phonographique (IFPI)/International Federation of the Phonographic Industry (IFPI):

Lewis FLACKS (Director, Legal Affairs), London

Fédération internationale des acteurs (FIA)/International Federation of Actors (FIA):

Katherine SAND (Ms.) (General Secretary), London  
Garry NEIL (Policy Advisor, ACTRA Performers Guild), Toronto  
Henrik PETERSEN (President, DSF), Frederiksberg  
Bjørn HØBERG-PETERSEN (Legal Counsel, DSF), Copenhagen  
Mikael WALDORFF (Adviser, General Secretary, DSF), Copenhagen  
François PARROT (Syndicat français des artistes-interprètes (SFA)), Paris  
Kotafu FURUKAWA (General Secretary, Japan Actors' Union (JAU)), Tokyo  
Liv BJØRGUM (Mrs.) (Vice-President, President of Norsk Ballettforbund (NBF)), Oslo  
Ernst BREM (SIG), Zurich  
John McGUIRE (Associate National Executive Director, Screen Actors' Guild (SAG)),  
New York  
Barbara RINGER (Ms.) (Consultant, Screen Actors' Guild (SAG)), Millboro  
Sallie WEAVER (Ms.) (Director, Performers' Rights, Screen Actors' Guild (SAG)),  
New York  
Alicia DOGLIOTTI (Mrs.) (Adviser, SUA), Montevideo

Fédération internationale des associations de bibliothécaires et des bibliothèques (FIAB)/International Federation of Library Associations and Institutions (IFLA):

Annabel HERD (Ms.) (Copyright Research Officer, Australian Council of Libraries and Information Services), Canberra

Fédération internationale des associations de distributeurs de films (FIAD)/International Federation of Associations of Film Distributors (FIAD):  
Gilbert GRÉGOIRE (President), Paris

Fédération internationale des associations de producteurs de films (FIAPF)/International Federation of Film Producers Associations (FIAPF):  
André CHAUBEAU (directeur général), Paris  
Alessandra SILVESTRO (Mlle) (vice-présidente, affaires juridiques, Time Warner Europe),  
Bruxelles

Fédération internationale des musiciens (FIM)/International Federation of Musicians (FIM):  
John MORTON (President), Longfield  
Raïmo VIKSTRÖM (Vice-President, Finnish Musicians Union), Helsinki  
Shinji MATSUMOTO (Vice-President, Executive Director (CRIC)), Tokyo  
Jean VINCENT (secrétaire général), Paris

Fédération internationale des organismes gérant les droits de reproduction (IFRRO)/International Federation of Reproduction Rights Organizations (IFRRO):  
Tarja KOSKINEN-OLSSON (Mrs.) (Chairman), Helsinki

Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE) :  
Luis COBOS (président), Madrid  
François PARROT (secrétaire général), Bruxelles  
Francesca GRECO (Mme) (représentante permanente), Bruxelles

Institut interaméricain de droit d'auteur (IIDA)/Interamerican Copyright Institute (IIDA):  
Ricardo ANTEQUERA PARILLI (President), Caracas

Institut Max-Planck de droit étranger et international en matière de brevets, de droit d'auteur et de la concurrence (MPI)/Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law (MPI):  
Silke VON LEWINSKI (Ms.) (Head of Department, International Law), Munich

International Intellectual Property Alliance (IIPA):  
Fritz ATTAWAY (Director), Washington, D.C.  
Dean S. MARKS (Senior Counsel, Intellectual Property, Time Warner Inc.), Burbank

Japan Electronic Industry Development Association (JEIDA):  
Hideo ISSHIKI (Chairman, Database Protection Discussion WG), Tokyo  
Hisashi ODA (Deputy-Chairman, Database Protection Discussion WG), Tokyo

Ligue internationale du droit de la concurrence (LIDC)/International League of Competition Law (LIDC):

François BESSE (avocat), Lausanne

National Association of Broadcasters (NAB):

Benjamin F.P. IVINS (Associate General Counsel), Washington, D.C.

National Association of Commercial Broadcasters in Japan (NAB-Japan) :

Hisashi HYUGA (Department of Legal & Business Affairs, Center for Rights & Data Administration, Tokyo Broadcasting System (TBS)), Tokyo

Kenji ASHIDA (Copyright & Contract Control Division, Software Projects Department, Nippon Television Network Corporation (NTV)), Tokyo

Mitsushi KIKUCHI (Manager, Contract & Copyright Department, Multimedia Division, Asahi National Broadcasting Co., (ANB)), Tokyo

Hidetoshi KATO (Television Tokyo Channel 12), Tokyo

Shin-ichi UEHARA (Director, Copyright Division, Asahi Broadcasting Corporation (ABC)), Tokyo

Mitsumasa MORI (Deputy General Manager, Copyright & Contract Division, Yomiuri Telecasting Corporation (YTV)), Osaka

Atsushi YABUOKA (Copyright Division, Kansai Telecasting Corporation (KTV)), Tokyo

Yuko KIMIJIMA (Ms.) (Attorney-at-Law (TMI Associates); Legal Adviser (NAB-Japan)), Tokyo

Yuko MATSUOKA (Mrs.) (Adviser, President (ProNet.)), Tokyo

Honoo TAJIMA (Deputy Director, Program Code & Copyright Division), Tokyo

North American National Broadcasters Association (NANBA):

Erica Frances REDLER (Ms.) (Chair, NANBA Legal Committee; Senior Legal Counsel, Canadian Broadcasting Corporation (CBC)), Ottawa

Tony SCAPILLATI (Executive Director, Canadian Broadcasting Rights Agency Inc.), Ottawa

Performing Arts Employers Associations League Europe (PEARLE):

Anne-Marie BALET (Mme), Lausanne

Software Information Center (SOFTIC):

Kensuke NORICHIKA (Executive Director), Tokyo

Software Publishers Association (SPA):

Mark TRAPHAGEN (Vice-President and Counsel, Intellectual Property and Trade Policy), Washington, D.C.

Union de radiodiffusion Asie-Pacifique (ABU)/Asia-Pacific Broadcasting Union (ABU) :  
Jim THOMSON (Chairman, ABU Copyright Working Party; Office Solicitor, Television New Zealand (TVNZ)), Auckland  
Yuichi AKATSU (Vice-Chairman, ABU Copyright Working Party; Deputy Director, Copyright & Contract Division (NHK)), Tokyo  
Yoshinori NAITO (Copyright & Contract Division (NHK)), Tokyo

Union des radiodiffusions des Caraïbes (CBU)/Caribbean Broadcasting Union (CBU) :  
Christopher Anthony AUDAIN (Attorney-at-Law), Bridgetown  
Leon MITCHELL (Managing Director), Kingston

Union des radiodiffusions et télévisions nationales d'Afrique (URTNA)/Union of National Radio and Television Organizations of Africa (URTNA):  
Madjiguène MBENGUE-DIOUF (Mme) (conseiller juridique (RTS)), Dakar  
Hezekiel OIRA (Head, Legal Department, Kenya Broadcasting Corporation (KBC)), Nairobi

Union européenne de radio-télévision (UER)/European Broadcasting Union (EBU) :  
Moira BURNETT (Mme) (conseiller juridique, département des affaires juridiques), Genève  
Heijo RUIJSENAARS (conseiller juridique, département des affaires juridiques), Genève

Union internationale des éditeurs (UIE)/International Publishers Association (IPA):  
Joseph Alexis KOUTCHOUMOW (Secretary General), Geneva  
Charles CLARK (Copyright Adviser), London  
Benoît D. MÜLLER (Legal Adviser), Geneva

#### IV. BUREAU/ OFFICERS

Président/Chairman:	Jukka LIEDES (Finlande/Finland)
Vice-présidents/Vice-Chairmen:	Hilda RETONDO (Sra.) (Argentine/Argentina) SHEN Rengan (Chine/China)
Secrétaire/Secretary:	Kurt KEMPER (OMPI/WIPO)

V. BUREAU INTERNATIONAL DE L'ORGANISATION MONDIALE DE LA  
PROPRIÉTÉ INTELLECTUELLE (OMPI)/  
INTERNATIONAL BUREAU OF THE WORLD INTELLECTUAL PROPERTY  
ORGANIZATION (WIPO)

Kamil IDRIS, directeur général/Director General

Shozo UEMURA, vice-directeur général/Deputy Director General

Mihály FICSOR, sous-directeur général/Assistant Director General

Kurt KEMPER, directeur conseiller/Director-Advisor

Jørgen BLOMQVIST, directeur, Division du droit d'auteur/Director, Copyright Law Division

Joëlle ROGÉ (Mme), directeur-conseiller, Secteur du développement progressif du droit international de propriété intellectuelle/Director-Advisor, Sector for Progressive Development of International Intellectual Property Law

Patrick MASOUYÉ, conseiller principal, Division du droit d'auteur/Senior Counsellor, Copyright Law Division

Boris KOKIN, juriste principal, Division de la coopération avec certains pays d'Europe et d'Asie/Senior Legal Officer, Division for Cooperation with Certain Countries in Europe and Asia

Saule TLEVLESSOVA (Mme), consultante, Division de la coopération avec certains pays d'Europe et d'Asie/Consultant, Division for Cooperation with Certain Countries in Europe and Asia

Geidy LUNG (Mlle), consultante, Division du droit d'auteur/Consultant, Copyright Law Division

[L'annexe III suit/  
Annex III follows]

ANNEX III

**DECLARATION OF CONDOLENCE**

*Considering* that the countries of Central America have suffered terrible loss of life and enormous economic losses as a result of hurricane Mitch,

*Considering* further that the international community has been profoundly saddened by this tragedy,

*We, the Delegations of the Member States* of WIPO, of the European Community and of the intergovernmental and international non-governmental organizations represented on the Standing Committee on Copyright and Related Rights, request the Director General of WIPO to convey to the Governments of the countries affected our sincerest sympathies and our hope that their peoples will find the strength with which to rebuild their lives and their countries.

[End of Annex III and of document]