

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR)

27TH SESSION: DAY 5- 02 MAY, 2014, GENEVA, SWITZERLAND

PRELIMINARY

This is the transcript of Day 5 (02 May, 2014) of the 27th Session of the WIPO SCCR held at Geneva, Switzerland. This includes statements by various country representatives and non-governmental organizations. Proceedings on the fifth day revolved around the Limitations and Exceptions for Libraries and Archives and the Conclusions for the 27th Session. The text in the following section is largely unedited, save for additions to indicate where text is missing (poor internet connectivity meant that access to transcription was often interrupted) and clearly identify the speakers.

TRANSCRIPT – INTRODUCTORY

CHAIR:

Good morning, ladies and gentlemen. Could I ask you please to take your seats? Thank you. That way we can get the session under way. My hope we will be able to continue with the thoroughly fascinating exchange of points of view and opinion that we were

having yesterday, including preferably some consolidated proposals for further work. And, of course, it goes without saying that we would be very happy to continue to listen to contributions from non-Governmental organizations as well because they give us very useful practice examples and they also provide us with some very intriguing figures which can be used as further input as we deal with the various topics under this agenda item. Exceptions and limitations for libraries and archives. Now yesterday we concluded our discussion on topic No. 8. So I would suggest that we get the ball rolling this morning with topic No. 9. And the Secretariat can give us a rapid summary on that topic, technological measures of protection and then we can open the floor for this morning's discussion. Michelle,
the floor is yours, thank you.

SECRETARIAT:

Thank you, Chair. With regard to topic 9, technological measures protection, just to review briefly, this is I dressed in SCCR 23 on pages 43 through 45. There are three proposed texts and then there are comments from 43 to 45 in the annex of page 58. And there is a broad general principle in the U.S. document regarding the ability to provide access to information in the digital environment. That document is document 26/8. So with respect to the three text it is there is a proposal from the African Group, saying contracting parties shall ensure that the beneficiaries of exception has the means to enjoy the exception with the necessity right to sir couple ventl. Proposal from Brazil, Ecuador and Uruguay says that shall, sure have the means to enjoy when Technological Protection Measures have been

applied to another work or matter does not specifically state the right to circumvent and then the proposal from India also mentions the right to circumvent, text logical protection measures applied to the any work for the purposes of enjoying any Act permitted under this Treaty and in their national legislation. That last phrase is added in the Indian proposals. There were a number of comments although not too many. Generally speaking a number of the comments discuss the relationship of the TPM provisions in this text to provisions in the WCT, WPPT and TRIPS and in general how those provisions would apply and how existing copyright Treaties would apply in the digital environment and a number of comments said that

it was necessary to allow some ability to circumvent to libraries and archives in order for them

to fulfill their mission while at the same time it was important to continue to have effective measures to prevent piracy. There are a number of clarifications that the uses that would be permitted by the libraries and permitted to circumvent in order to undertake would have to be legal uses. There was a description -- there were descriptions of U.S., Swiss and Japanese legal systems that allow some level of exemption or exception with regard to the application of Technological Protection Measures in certain circumstances and then there were some comments saying that the need here was for their to be legal certainty for libraries as to the intersection of Technological Protection Measures and exceptions. Thank you, Chair.

CHAIR:

Thank you very much Michelle. And thank you also to the Secretariat for making an excellent summary on this particular topic.

This is I think a very interesting topic. It is, of course, integral part of all the challenges we face with an introduction of new technology in to the copyright system. Technology is important in enhancing the copyright system and the protection of related rights but at the same time we have already had some experience of how technological measures of protection can be tied in with exceptions and we've already got one or two international agreements on these issues. There are the Beijing and Marrakech treaties as obvious examples. Now with that I would like to flow the floor open for discussion and we will start with Member States on

topic 9 and then we will move on to contributions from non-Governmental organizations. I ask everyone states and NGOs to focus particularly on topic No. 9. Thank you and the floor is open. Kenya has the floor.

TRANSCRIPT – NATION STATES

KENYA:

Thank you, Chair. And good morning, colleagues. I think in our statement the other day we did provide a brief explanation on the technological measures of protections and how they are impeding the work of libraries and archives. As we now all know the changes taking place in the digital environment is affecting how books are being captured instead of the old hard copy system we are moving to digital copies and then replaced the

current system where libraries could access all published works within their countries by deposit a look in the libraries because we do have books which are primarily some books which are primarily been published online. That means then when we have this new measures which protect such content for the sake of ensuring that the publisher or the author gets revenue, it means that libraries are not in a position to access those works. Yet it is very important for them to be able to undertake their traditional role of providing depository of such knowledge and information and in that regard then we need to have a solution whereby the libraries can be able to access such works and continue to serve that traditional role. In that respect then, Chair, we notice there are a number of proposals and we then abide to make our discussions more focused and we need to be able to try to bring this text maybe in to a single text, if possible, so that we can have a clearer understanding of the issues we want to address and therefore take in to concerns such proposals may bring. So the issue is really maybe to try to bring the text in to a single -- all the proposals in to a single text so the issues can be clearly isolated and therefore we can have a focused discussion which really is geared towards finding solutions in to some of these problems that I already highlighted. I thank you, Chair.

CHAIR:

I thank the Distinguished Delegate of Kenya for supporting the proposal made by the African Group on this topic. And thank you also for your suggestions with relation to further work. The invitation to proupon in any events of other text to work on a consolidated proposal is a useful one and would be very interesting to now hear what the proponents opinion is on this. I now turn the floor to the European Union.

EUROPEAN UNION:

Thank you. On topic of technological measures of protection. You may remember that the European Union in its statement referred to the flexibility that the

current international legal framework offers Member States as regards exceptions but we also are of the opinion that the current legal framework on an international level regarding TPM offers this flexibility to the different WIPO Member States. There are provisions related to the legal protection of TPM in the 296 WIPO Treaties, WCT and WPPT, which are rights based Treaties. We have provisions regarding the legal protection

also in the recent Beijing Treaty. Many WIPO states have taken different approaches as how to deal with the interface between the legal protection of TPM and the exceptions and limitations. In Europe, for example, we have provided for Article 64 in the 2001 directive, while we have an absolute prohibition of circumventing TPM, there is this provision in Article

6.4 that first allows that rightsholders would take appropriate or voluntary measures and within a certain time frame Member States could intervene to make sure that the beneficiaries of certain exceptions which are deemed of public interest would in reality in actual terms

benefit from these exceptions. We understand and we have had experience in certain negotiations on free trade agreements with certain Delegations as well that other regions in the world or countries in the world have different approaches and in some states there is even the possibility for certain institutions to circumvent TPM but we question that this flexibility should be taken away from us and we have taken our own approach. Of course, we are as always evaluating our own framework. Thank you.

CHAIR:

I thank the Distinguished Delegate of the European Union. Thank you for that reminder of how recent Treaties have included a treatment related to technological measures of protection and thank you for the expression of your position on this issue. Any further speakers? Okay. While Delegates are perhaps preparing a position or thinking about a position on this issue, I just remind all of us that this has been dealt with in the most recent two Treaties, particularly the Beijing Treaty where I believe some exhaustive work was

done on the inclusion of the relevant provision. There were a lot of contributions on the conference preparatory work on it and it was in the end possible to reach a Consensus on the relationship between technological measures of protection and exceptions and limitations of a general nature. A very similar exercise was carried out when Article 7 of the Marrakech Treaty was considered and that also was an excellent opportunity as I remember it for a further

consideration of the issue and more Consensus building on the importance of having a balanced relationship between technological measures of protection and the use of exceptions.

So we have these two positive examples in the recent past and I am sure that we will receive further contributions this time on this issue with those in mind. Since we managed to reach agreement in the two previous Treaties on this issue I am sure we are going to be able to build Consensus on it now as well. However since we have no Government wishing to speak in the immediate I will give the floor to nongovernmental organizations in case any of those have anything to say on topic No. 9, technological measures of protection. NGOs the floor is yours. CLA has the floor.

TRANSCRIPT- NGO STATEMENTS

CLA:

On behalf the Canadian library Association the national voice in copyright matters for Canada's diverse library community I am grateful to the Chair for this opportunity to speak on topic 9. The Canadian library Association was proud in 2012 welcoming the world

to the UNESCO conference. We were encouraged by necessary niche copyright exceptions and

limitations to ensure preservation of and access to cultural heritage in digital format appear acquisition of and access to that heritage in a culture appropriate manner ". The recent

Canadian experience however with Technological Protection Measures demonstrates the need

for such a framework. While Canada's libraries have been appreciative of the environment of user's rights in copyright which had been created in Canada through parliament and our Supreme Court nonetheless it must be recognized since 2012 that Canadian library's abilities have been compromised since the recent introduction of legal protection for Technological Protection Measures and digital rights management. These statutory protections for the many different types of technologies used to control access to content and to prevent users from copying content do not respect the legislative copyright exceptions for library users generally and for non-profit library owned under in particular under Canadian laws. Rights owners are now able to overreach their legitimate copyright limits in the Canadian market by installing Technological Protection Measures. Because the technological protection measure has been installed by a rights owner a Canadian library or air chooifs otherwise staet torely protected abilities to preserve the underlying works becomes practically inprealtible. Canada's story is not unique and on this topic the Canadian library Association speaks for all library and archival

organizations represented in this room. States we need an international Treaty with a provision declaring that states must legislate so that libraries and archives can circumvent Technological Protection Measures in order to exercise their statutory limitations and exceptions to the rights of rightsholders. This will restore balance and allow libraries and archives including Canadian libraries and archives to serve their important public interest function. Thank you.

CHAIR:

Thank you very much to the Canadian library Association for that. KEI, you have the floor.

KEI:

Thank you, Mr. Chairman. KEI supports the use of the language in the Marrakech Treaty from June of last year found in Article 7 that says as regard to the Technological Protection Measures that the legal protection associated does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty. I am sure it has to be modified for this. But I think that this sort of simple one sentence version in the Marrakech Treaty which was agreed upon and supported by Member States in that negotiation not only appropriate, you know, as modified for the library thing but also illustrates on this issue it is not difficult to move forward. I think that people already know the

contours of the language. It is not like a huge harmonization. This language -- so the Marrakech Treaty has already been found satisfactory amongst countries that have somewhat different legal ways of implementing legal provisions. It was agreed upon by the United States and agreed by the European Union and agreed upon by the Developing Countries and basically endorsed by the right owners that have endorsed Marrakech Treaty. I think the language in the Marrakech treat I think you found a way forward on this issue in regards to libraries. Thank you.

CHAIR:

Thank you very much, KEI for reminding us of the Consensus which was achieved in the course of the negotiations for a previous Treaty. The chartered institute of library and information professionals, now you have the floor.

CILIP:

Thank you, Mr. Chair. I am speaking on behalf the chartered institute of library and information professionals with the support of all the library and archive NGOs here present. Per the vision of a ser couple vings of technological measures or TPMs has been implemed in kroiP laws all over the world and they enabled a Jewication of cases such as exists variously in

EU member state, Switzerland and Japan and United States. Even when the dispensation is granteded at national level unless the ruling is enforceable or the right holder adpres to provide a clean copy of the work technical challenges has to be put in to remove the TPMs. It should be noted that TPMs do not cease to exist upon the expire ri of copyright. They create per petal copyright. They become obsolete on the plat torm forms when they ease cease to exist often because of going out of business. Works bin inaccessible and representing loss of content and TPMs can become ob sew let in as little as three years. Both formats are on their way out as the optical disk trooifs that play them. E-books and e-journals and web harvesting a gathering pace around the world. Without action TPMs will thought the further ability of libraries and special collections to preserve our cultural and scientific heritage. TPMs may permit Acts for exceptions and limitations. Regardless of which country it is accessed from and which legal jurisdiction applies. A recent example of TPMs impeding the search comes from the UK. Text and data mining is a process that enables our speeds up the discovery of new scientific facts. It is a machine extraction of facts the from potentially hundreds of thousands of published science tick journals to identify unknown patents and relationships in data for statistical analysis and modeling. However TPMs are preventing the searchers to access the data from which their academic or research institution libraries subscribe. Yet the copyright permissions needed to copy the journal Articles in order to mine are difficult and for

the most part prohibitively couple ber come and costly to attain since several hundreds of thousands of Articles by thousands of different authors are required for one project. Attempts by a number of UK University and research libraries to mine journals direct from publishers platforms are not for theed by TPMs but the TPMs automatically closed down that library's access. To ensure text and data mining can go ahead appear the UK has laid ledge slaegs If the Articlement to introduce an exception for the purpose of compute treagsal analysis for noncommercial research. WIPO Member States have recently recognized the TPM problem in

Article 7 of the mear care Treaty which provides a useful precedent for language on TPMs that

cob included in a Treaty for libraries and archives. Thank you for your attention.

CHAIR:

Thank you very much for your contribution. I now call on SAA. Society of American archivists. You have the floor.

SAA:

Thank you, Mr. Chair and good morning, Delegates I just want to intervene very briefly here. Thank the Delegates for the opportunity to explain one more instance of issues in which copyright presents challenges for archivists who want to abide by legal norms but also have to fulfill their mission. It arises almost on a daily. One of the core elements in documenting the history of that institution as well as the history of the disciplines represented by the faculty members is acquiring what we call faculty papers, papers in quotes. Over the years papers have included paper. They have included computer disks. They have included audiovisual tapes and so forth. But increasingly when we get a call to acquire faculty papers now it is a matter of picking up a laptop or accessing the server drive and copying off every portion of that person's share that is now retired or deceased. Copying it off just to copy that's a bit by bit copy which is not readable and intelligible until we go through the software is only the first step. But what has to be done because the content there may be behind passwords, may be behind technical protection measures there needs to be the ability to go through that even before we can assess whether the information is of enduring value and certainly when it is of enduring value we need to be able to get beyond those technical protection measures. So this is an instance where the mission in capturing the documentation and even assessing what's worth capturing requires us to do something which technically I believe we shouldn't be doing and what we are looking for is exceptions that address those issues. The model as KEI pointed out in Marrakech Treaty I think represents a very good conceptual basis. Thank you very much.

TRANSCRIPT- NATION STATES

CHAIR:

Thank you very much, sir. We are very grateful for your contribution which has been not dissimilar to the comments made by other non-Governmental organizations. Now I see I have a Government Delegation wishing to speak before we continue with NGOs. So I would turn the floor to the Delegation of Ecuador.

ECUADOR:

Chairman, thank you very much. Maybe the Brazilian Delegation had raised his name plate before I did. But never mind. I will be brief. On this issue of technological measures of protection we'd like to say that the proposals that have been tabled by the African Group and India and Brazil as well in our opinion of our Delegation compatible with the goal that we seek to achieve on technological measures of protection. So basically I think we could work on a joint or consolidated text. I do however think it is necessary to flex something up at this stage. On technological measures of protection and Article 11 of the

WCT we have technological measures of protection for questions for which existing copyright provisions are being violated. In other words, unauthorized Acts. These technological measures of protection therefore are directed at preventing those. We are therefore of the opinion that that's what we should seek with the technological measures of protection here. Activities undertaken by libraries should not be impeded by these measures. But the measures should be directed at avoiding violations of existing copyright provisions. The text which I assume are going to be working on should be heading in the direction in our opinion and I hope that our proposal will help us to achieve that. There are some concerns I know raised by other Delegations, including the distinguished Delegation of the European Union but I would hope that they will be able to continue with their internal provisions on these issues without a problem. We can be flexible with any provision on technological measures of protection and we believe that we could achieve that flexibility by working on the basis of what we have on the table already. Thank you.

CHAIR:

I thank the distinguished Delegation of Ecuador for that contribution and thank you for your expression of flexibility and your willingness to take up the kind invitation which was issued a little earlier by the distinguished Delegation of Kenya. I think it would be helpful in proponents could work on a proposal.

BRAZIL:

Thank you, Mr. Chairman. I just wanted to make a few comments on the current discussion taken as a basis, of course, of indications and comments made by others before me and even in previous sessions. So first thing I would like to say is that, of course, our Delegation agrees with others and several other Delegations that this is an issue that indeed the question of limit in the liability of librarians is very, very important. In that sense we would also like to support the proposal made by the Distinguished Delegate from Kenya and Ecuador that we should perhaps engage in trying to work on the consolidation of the various proposals that we have on the table. We, of course, will be engaging in that exercise as well. And then in order perhaps as a contribution to that exercise I would like to say that it is would be important for us to keep in our mind the texts and the agreement we were able to reach at the Marrakech Treaty that might be useful in our work trying to come up with a more consolidated language on this particular issue. And also I would like to refer to comments made previously, in previous sessions by Switzerland that we consider to be extremely, extremely useful and we think that they indeed shed a lot of light in our debate here. Particularly I would like to refer to language that Switzerland mentioned and that is **(some text missing)**

TRANSCRIPT- NGO STATEMENTS

CHAIR

(some text missing)... It is time to listen to CIS.

CIS:

Thank you, Mr. Chair. We believe that in an environment when much of the preservation of dissemination is in digital format, as regards this particular provision of TPMs in this international instrument is integral. As we echo the early year statements made by the Canadian Library Association and the Charter Institute of Library Professionals among others on

the need for this exception. TPMs have the potential to override and would render much of the discussion we have been having over the past two days of this committee and in earlier sessions of this Committee redundant where such an exception not to be talked about along with other exceptions that were -- that we are discussing in place for libraries and archives. TPMs may prevent end users from using works in ways that are allowed under fair use and fair

dealing provisions. If, for instance, we were to dilute having limitations and exceptions for libraries and archives for the purposes of the preservation of knowledge and TPMs were in class place on master copies of files that were obtained by libraries and archives these institutions would not be allowed to carry out basic preservation activities such as file format migration which in turn would limit the life span of the master files in question and also render

access to these files difficult if that's the word that I could use. Which in turn defeats the very purpose of preservation and access to knowledge by libraries and archives. Therefore Mr. Chair, we think that the suggestion echoed -- that the suggestion made by KEI earlier that Article 7 of the Marrakech Treaty that deals with TPMs would be a logical -- could be a logical step forward and we think that there is merit in that statement and we would like to align ourselves with that statement. Thank you, Mr. Chair.

CHAIR:

Thank you to CIS. I don't see any requests from the floor oh, sorry, Trinidad and Tobago.

TRANSCRIPT- NATION STATES

TRINIDAD AND TOBAGO:

Thank you very much Mr. Chairman. My Delegation couldn't agree more with the Delegations of Ecuador and Brazil. We also agree that consolidating the various proposals on TPMs on the table will be the way forward with respect to the advancement of this issue. While we understand and appreciate the views of our colleague from and GRULAC coordinator Uruguay whereby has also a proposal on this issue that instructions also needed from capital we can agree and we appreciate and we understand that but we think we hope that we can move forward on this issue by the consolidation of all the

texts. I've also listened to the Delegations of Morocco and KEI who had some constructive interventions with respect to the Marrakech Treaty. We also know that TPMs were one of the burning issues and you Mr. Chairman would know that as na sill tealtor but we were able to overcome that at the end and I think right now Article 7 provides a blueprint of the way forward how we can move forward and we are not saying that we cut and paste exactly what we have now but we think it provides a blueprint on the way forward with respect to this issue. We do hope with the consolidation and this blueprint that we have that we can move forward on this issue.

CHAIR:

Thank you very much to the Distinguished Delegate from Trinidad and Tobago for recalling that precedent and very important agreement and Consensus we reach in previous Treaty. Thank you very much for that. Well, so we have you -- IPA asking for the floor.

TRANSCRIPT- NGO STATEMENTS

IPA:

Thank you very much Mr. Chair. And I will be brief as I only want to comment on the issue of technical protection measures. We -- when we created jointly or when you created the Marrakech Treaty there was a clear awareness for the urgency and because of the humanitarian need it was decided to move quickly rather than to move thoroughly. I think we now have a lot more time on our hands and we can make sure that we get the issues right and that we therefore give them the proper reflection. What we have heard about technical protection measures on the concerns that the libraries face are actually a mix of many different kind of issues, only a very small part actually has anything to do with technical protection measures. We hear about problems of changing formats but actually out of date text or formats are not technical protection measures. We hear about problems with reading software which is becoming out of date. We hear about problems with text and data mining. All of those have to do with very, very different issues, very many different changes. Nowadays it is no longer the case that libraries always buy copies which they then hold in their other than repository. Often they will buy only temporary access to an online database which is constantly being updated. And therefore the question is no longer that of access and of comment -- of making it possible to access a copy which is in the premise of a library. We are actually talking about huge databases which are stored around the world decentrally with publishers or with a network of publishers or databases. In all these cases the issue of how to preserve and how to enable continued access is not solved simply through a small clause in a copyright law. A lot more is needed. A lot more collaboration is needed and in particular in text and data mining it has become clear that intraoperability of different databases is the key issue in which again publishers are not an obstacle but they are actually providing solutions themselves. Happy to get in to that discussion once we actually get in to a detailed discussion about technical protection measures and about all the other issues that libraries need to

address but I think it is not a simple issue. It is a complex issue. It is not solved in a line like in Marrakech Treaty. I think it needs thorough thought and an understanding of the dynamics of the library environment today. Thank you.

CHAIR:

Thanks to IPA for reminding us some solutions that are brought for publishers to address this issues as well. I am sure that Delegations will consider that in order to find a balanced solution to this important topic. Unless -- well, I don't see any requests from the floor. So I will want to thank you, all of you and NGOs for their views regarding this topic that has been raised not only here but in the two previous agreements, international agreements that came around from -- came out from this Committee. So we go to the topic No. 10, and we ask Secretariat to do the same as summary as before. Venezuela will have the floor.

TRANSCRIPT- NATION STATES

VENEZUELA:

Thank you very much Chairman. Chairman I do apologize for taking the floor at the 11th hour but I just wanted to make a point. The issue at Marrakech was a humanitarian one really because we were talking about Human Rights issues. We were talking about accessibility and ensuring that people who were visually impaired could fully enjoy their rights. However in the wider world all people in Developing Countries need access

to education to reading matter to recreational reading, et cetera, and there is no guarantee that the Marrakech Treaty which as I said was basically humanitarian Act for a particular group of people and was therefore important, of course, can be repeated on a wider scale. After all it was something that was very complicated and took a very long time. I don't think it is a good idea therefore for us to necessarily put in the record of this meeting the fact that we can Act as quickly on these issues in these circumstances because the circumstances are different. I do think that Article 7 of Marrakech is a good example. And we could perhaps learn from it. But technological measures should be to open access to people further. We don't want to see them used for the opposite purpose. We don't want to libraries to be turned in to book museums. They should continue to be what they are. Areas where people can get access to information where they can get access to learning materials and when they continue to do so on a free basis. Thank you.

CHAIR:

Thank you Venezuela for that statement and it is duly noted. Michelle you have the floor.

SECRETARIAT:

Thank you, Chair. On topic 10, contracts, we -- in document SCCR/26/3, pages 46 to 47 we have three proposed texts. One from the African Group, one from Ecuador to the proposal of the African Group and one from India. There are comments on pages 46 to 47. And page 59 of the annex. All three proposed texts use the terminology of making contract at provisions null and void but there are some small differences -- other differences among them. The African Group proposal says the relationship with contracts applies to any contractual provisions which provide exemptions from the application of the limitations and exceptions listed in the relevant Article shall be null and void. The proposal from Ecuador entitled obligation to respect exceptions to copyright and related rights provides

that any contractual provisions that prohibit or restrict the exercise or enjoyment of the limitations and exceptions in copyright adopted according to the provisions of the Treaty shall

be null and void. The proposal from India directs Member States to provide in their national legislation that any contractual provisions prohibiting or restricting the exercise or enjoyment of rights granted under the Treaty or national legislation shall be null and void. There were a variety of comments summarizing briefly, there were some examples of the need to be able to override contracts if they don't allow the functions of the libraries and archives or the use of an exception otherwise provided by law. For example, if it is not possible to make a preservation copy due to contractual provisions. There also were some issues pointed out with respect to contracts on digital lending. Cautionary statements were made in other comments about interfering with the freedom of contract and not allowing adjustments of contractual -- of provisions on contracts to adapt to national law and circumstances. And then there were some suggestions that there are other ways to address the question of the relationship between contracts and exceptions than a Treaty provision. Thank you, Chair.

CHAIR:

Thank you very much. Well, we are now going to take comments on topic 10. The floor is open on topic 10. Kenya has the floor.

KENYA:

Thank you, Chair for giving me the floor. So Chair I think in regard to this topic I think the main issue here is to simply to make it possible for libraries and archives to be able to enjoy the exceptions and limitations which are created within the national laws so that we don't -- we have legislation which provides for those exceptions but the contracts override them. So briefly I think that's about the issue and we would like to address and in that regard I would like to just repeat what I have said before, if we could have a consolidated text-based on these three proposals I think that would be a great idea in terms of moving or work forward. Thank you, Chair.

CHAIR:

Thank you, my thanks go to Kenya. Thank you for those comments and that proposal. Kenya then is inviting the authors of the other proposals to move towards a consolidated text. Any further requests for the floor? Well, I don't see anyone asking for the floor. So I will let the authors of other proposals think over the Kenyan suggestion and I will also allow other Delegations from states to think about their comments on this. And in the meantime we will listen to NGOs. Your comments on topic 10, please. IFLA has the floor. So we go to CILIP. Don't worry, IFLA we will go back to you. CILIP has the floor.

TRANSCRIPT- NGO STATEMENTS**CILIP:**

Thank you, Chair. The chart of institution and -- is great for the opportunity to take the floor again. Libraries in education establishments are faced with licensed contracts that prohibit them from carrying out prohibited Acts under copyright law. You will find licensed contracts with cover sheets just outside this room all of which contain clauses that under mine statutory exceptions and limitations to copyright in various jurisdictions. I will focus on just one for the purpose of illustrate. The Wiley online license. The terms of typical of clauses in licensed contracts that restrict or prohibited Acts. Permitted by the laws of a number of other countries. This particular license does not allow preservation copying, copying in to accessible form mats for Visually Impaired people. Copying for judicial or statutory purposes, both domestic and cross-border supply and both domestic and cross-border interlibrary loan of documents and text and data mining. It should be noted the prohibition on preservation copy it is the publisher that determines if per se access should

be achieved. What happens if the document -- additionally this contract is governed by the law of the U.S. state of New York and the U.S. federal law. Library customers worldwide must

agree for any legal disputes to be heard in New York county in the state of New York. The UK

experience is repeated worldwide since these international digital licenses are offered everywhere. The terms of many license contracts that override national limitations and exceptions show that in the absence of international action the commercial licensing is by defaulted guaranteeing freedom of access to information and through a quiet removal of rights granted by statutory limitations and exceptions. Without international agreement to protect libraries archive research and educational exceptions from being undermined by contracts the use of of contract will be continue to be hedged about with licensing difficulties. The Republic

of Ireland has protected its limitations and exceptions for years and recent Government report modernizing this. Our own UK Government has laid legislation before parliament to protect many of its library archives research and education exceptions from override by contract

terms ri dennor unenforceable any term of contract that purport -- we look to WIPO to do the same internationally. Thank you for your attention.

CHAIR:

Thank you for your declaration. Is it time to listen to German library Association.

GERMAN LIBRARY ASSOCIATION:

Thank you Mr. Chair. On behalf the German library Association I am grateful to the Chair to speak today about the importance of internationally binding exceptions and limitations for libraries. At some point we have discussed a way it solve the problem by licensing. In our view this is no solution. In Germany public libraries are simply not offered licenses by the righted Holders to lend e-books to the users. This is not the case for all e-books but especially for the best sellers that are currently only licensed to private customers. To tame the rightholders and to undermine the need -- I would like to mention a recent study by the digital book world. We found out that a lot of e-book borrowers was skently by or license e-books later on. We need to extend the principal of exhaustion to e-books. Which is called the right to e-read. You can find some of the above mentioned arguments in the pub lired Article which is title how copyright law keeps e-books locked up and available for free on the Internet and a few printed copies outside. In is simply no balance any more. On the one hand the exhaustion principle might not apply to e-booshgs and on the other hand, licensing terls can take away exceptions which are drafted by the rightholders and the public. In the digital world publishers, decide alone with access and to which conditions. This is not in the interest of public access to information and not in the interest of research. Publishers of scientific journals have huge negotiation power. Publishers exploiting research Articles have a natural monopoly. If they are granted exclusive rights from the authors. Scientists and students are dependent on the citing specific Article in a specific journal. This Articles cannot be substituted by products of other creators or rightholders. So the clex su liveness of copyright constitutes a totally different situation from other economic sectors. Lie praers of research institutions and Universities are bound to require thok journals even if the u authorize is allowed to put the Article on the server of his or her institution. The extraordinarily high profits of some international publishers are the result of this special monopoly situation. And not a fair competition. This unbalanced situation can be avoided if exceptions are mandatory. Thank you very much.

CHAIR:

Thank you, IFLA has the floor.

IFLA:

Thank you, Chair. I speak on behalf of the international federation of libraries Associations and institutions. The international body representing over 650,000 library and information professionals in 150 countries. We are here seeking a provision that aguards the exercise of our national copyright limitations and exceptions from override by contract. We

thank the African Group Ecuador and India for their proposals on this topic and would like briefly to note that there are existing precedents for the language they have proposed. Wub is Article 15 of the European directive on the legal protection of databases and another is Article 9 subsection 1 of the European directive on the legal protection of computer programmes. We have been told that the existing international framework provides sufficient policy space for national exceptions. However for libraries in many regions their national exceptions no longer apply. In the digital environment publishers could be described as our copyright policymakers. They determine what tvs services we are determined to provide. To ensure libraries are able to fulfill their services in the public interest no longer apply. And this is not simply a national problem. We have been making a selection of licenses available each day outside the room for you so you can see for yourself the complexity of the licensing environment in which we find ourselves. A University library in South Africa may be asked to sign licenses by conditions set by a publisher in the United States. Academic libraries in United Kingdom are operating under German, American and Dutch laws. For libraries in some

countries the licensed terms and conditions they are being asked to sign are not in their languages. Who commented that establishing norms of copyright exceptions for libraries could in fact, simplify the complex licensing situation in which we find ourselves. A recent British Liepraer study indicated that by the year 2020. So in less than six years 80% of scholarly works will be able in electronic format and of these 40% of scholarly works will be exclusively in electronic formats. The digital environment is a global one. And as more of our country's populations come online the challenges for libraries and archives to provide researchers in other countries with access to an electronic scholarly works to preserve these works and provide accessible format copies of these works for the Visually Impaired and undertake other activities deemed in the public interest by our Government policymakers will

only get worse. Thank you.

CHAIR:

Thank you to IFLA for its statement. We have received three requests from the floor. Okay. We have received four requests from the floor and we will close before going to coffee break and probably due to the time constraints to talk about the rest of the morning programme. So I ask you to be very directly -- your declarations in regard to topic we are discussing. Otherwise we are going to use more time than required. It is time to hear Ecuador.

TRANSCRIPT- NATION STATES

ECUADOR:

Thank you, Chairman. Thank you indeed for giving me the floor. I would like to make three comments. Firstly I would like to thank the African Group for their

proposal. And they propose that we consolidate the proposals that we have and produce a single text. Thank you for that proposal. Indeed I do believe that these important issues relating to contracts could be usefully grouped in to a single consolidated text. Having said that I go on to my second comment and this actually takes up points made by a number of NGOs who have spoken here and have given illustrations of what they actually experience. And it is clear that contracts should not be a hindrance. In other words, contracts should make it possible to undertake transactions with limitations and exceptions for the benefit of libraries and archives. And we should make appropriate reference to international standards that already exist. We also have to make reference to relevant legislation but having an international standard would be of great value in this respect. Because this standard would make it clear that limitations and exceptions should be made available in certain cases and that contracts should not be a hindrance to limitations and exceptions being benefitted from. We therefore believe that it is important for us to have a standard. Thank you.

CHAIR:

Thank you Ecuador. Brazil please.

BRAZIL:

Thank you for giving me the floor. Chair, first of all, we would like to thank the proposals made by Kenya on behalf of the African Group and Ecuador to merge the contracts with reference to contracts. The discussion of contracts is one of the most important topics we are discussing this instrument. We also would like to recall that the challenge the libraries are facing regarding contracts in their access to electronic content. In this regard we understand that we should not -- we should avoid that older contracts interfere in the exceptions and limitations that we are discussing in the international environment. To have this addition to the text that we are discussing we would like to propose text to be added to this new text that would be formed by the proposals that are already on the table. The text would read in this way, Member States/contracting parties shall take adequate measures to ensure that libraries and archives have the means to enjoy the exceptions and limitations provided in the instrument, notwithstanding contractual provisions that prohibit or restrict the exercise or enjoyment of the limitations and exceptions by libraries and archives. Thank you, Mr. Chairman.

CHAIR:

Thank you to the Distinguished Delegate from Brazil for his suggestion. Colombia has the floor.

COLOMBIA:

Thank you, Chairman. Chairman, it is the view of my Delegation that there can be no doubt as to the fact that standards on limitations and exceptions are of clear and manifest public importance. And any hindrance should therefore be considered as null

and void. Any standard that would allow us then to have this properly accepted and enshrined internationally would be welcome. For that reason we fully agree with what is being proposed now as a way forward.

CHAIR:

Thank you Colombia. United States please.

UNITED STATES:

Thank you, Mr. Chairman. The United States is intervening now not specifically on the topic of contracts because we are cognizant of how quickly the time is going by and how little time we have left. So we do want to make some general comments. We have not intervened on the last few topics on the list because we did not want to use up valuable time repeating our interventions on these issues from the last session which are a part of the record. But we do want to say that we are pleased that Delegations have started to discuss some of our objectives and principles and hope that the Committee will take up the objectives and principles document in more detail during the next session. We would like to ensure that there is an opportunity to fully address the specific terms of our proposed objectives and principles so that we can determine the level of agreement with their content. We would like to hear which ones different Delegations can accept or what additions or amendments they would propose. And again we believe this is the best way to take our work forward and make substantive progress rather than focusing on consolidating text in a process that may result in something that looks more like an international instrument that many of us are not prepared to accept. Now getting back to India's earlier proposal concerning regional workshops the United States believes that this might prove useful once we have agreed on objectives and principles. Any such workshops should be structured in such a way to assist countries in implementation of principles in to international law and assistance from the Secretariat or other Member States on a basis. It is premature to decide on such workshops before we have made more progress on our shared goals. Thank you.

CHAIR:

Thanks to U.S. Kenya has the floor.

KENYA:

Thank you, Chair. I think -- I would like to thank the Distinguished Delegate of Ecuador for his flexibility and Distinguished Delegate of Brazil for his additional comments

on how to improve text. We believe at this point in time that we need to be focused and be pragmatic in a way we move forward and we believe that as we continue discussions these need to have a list or something which is consolidated in this instance so that in a way it can be able to focus us in terms of our discussions. So we welcome any suggestions and ideas in terms of moving forward and we believe at this particular time that if we continue to focus on

comments I know we have a lot of comments in the text, and we appreciated those comments. We believe those comments are useful and for us to be able now to be able to begin incorporating those concerns which have been raised then we need to have something to work on, to work with. We believe we cannot be able to take in to account those comments without adding something which is clear in terms of the issues which we are dealing with and in that regard then we -- the regard of our proposals in terms of suggestions as a matter of trying to be pragmatic in terms of clearly identifying the issues which we have to focus on and

in that regard then the proposal by the U.S. in terms of associating the issue which is not very far from what we have trying to do here. Thank you, Chair.

CHAIR:

Thank you very much. Definitely the contribution by U.S. regarding goals and principles have been very welcome and I am sure it is very useful for going forward in our

discussions. So thank you very much for that. And I would appreciate if we just try to finish now that we have just a few requests from the floor to finish the discussion on this topic and not diverge because it won't be -- we can finish something completely and then we can use the time and coordinate with regional coordinators regarding the future work that has been proposed. So if you agree with that and I -- is it time to listen to Libre and KEI and I just ask to focus on the topic that we are discussing, No. 10. Liber, KEI and IA and IFLA and Torisma.

EU has asked for the floor. Yes. Okay. EU has the floor.

EUROPEAN UNION:

Thank you comearm and following on the previous interventions this is more of a general comment. We would like to reit iter rate once more that we consideration all submissions by WIPO member states that contributes to the sharing of practices which is how the EU sees these discussions on libraries and archives. We do not consider that these discussions will lead or otherwise pave the way towards legally binding instruments which we would not support. We would strongly underline that e do not expect the WIPO Secretariat to be involved in the merging of proposals from individual Delegations. We would ask that the comments made by all Member States during the first session remain in the body of the text under the relevant cluster so we have a clear view of how these discussions have evolved. In this regard we welcome the U.S. document which provides useful food for thought and expect that this paper will be discussed at the next session of the SCCR. Thank you Chairman.

CHAIR:

Thank you to European Union. Germany has the floor.

GERMANY:

I want to mention that Germany supports the position of the European Union and we also feel that it is up to the different Delegations to find a solution for their proposals on and that can agree and then maybe make a proposal for a consolidated text. This is not a task for the Secretariat.

CHAIR:

Well, thank you for that clarification but seems to me that the proponents have talked about working themselves a proposal. So probably we don't need that clarification but it is very welcome. Kenya has the floor.

KENYA:

Thank you, Chair. I would like to thank the Delegate from the EU for his comments. I think Chair we have spent a whole week here as an official committee of WIPO and therefore we don't believe whatever we have been discussing here is informal. We believe we have been engaging in rather formal discussions and in that regard then we believe that this is the way we saw this exercise is that when we initially made a proposal that we should

group the comments in annex so that we can have a clearer text but when that proposal was not acceptable to the Member States we say as proponents who have made a suggestion we can work on that suggestion and then that regard then there is no fixed way of dealing with it and we can give that task to the second yacht. It is upon us because we believe that the best efficient manner of conducting our business is to make use of the resources that exist within the Secretariat. That's why they are there to aid Member States and therefore we don't see any problem whether we -- the Secretariat does that duty for us. I think it is upon -- I mean the proponents to see how best to do it. But we give the Secretariat have formal meeting I don't see a problem with that. And that doesn't jeopardize the comments made by the Member States. The comments can still remain where they are after each topic. We have not suggested that for duration of the comments. Thank you, Chair.

CHAIR:

Czech Republic has the floor.

CZECH REPUBLIC:

Thank you, Mr. Chairman. I am speaking on behalf of the CEBS group and I will be very brief. We just would like to fully support the statement made by the EU and Germany. Thank you.

CHAIR:

Thank you to the Distinguished Delegate from CEBS. Brazil has the floor.

BRAZIL:

Thank you, Chair. I will be very brief. I understand -- I would like to support the comments made by my colleague from Kenya. I understand that this kind of well, proposal of new text of facilitating the work is already up -- is a task that often is given to the Secretariat, even in other Committees. In the IGC, for example, we have this practice of trying to bring new text and I understand that since there was support for the Delegations that made proposals perhaps we could go along with the proposal by Kenya, regarding specifically those countries that wanted their proposals to be merged or that brought new ideas that they would like to be merged to other proposals made in the past. Thank you, Chair.

CHAIR:

Thank you to the Distinguished Delegate from Brazil. Italy has the floor.

ITALY:

Thank you, Chairman. Chairman, we would like to express our support for the statement made by the EU and we also support what has been said by Germany and the CEBS group. It is our view that the proposals that have been made are proposals that are intended to highlight certain issues that could be a basis for discussion. We could have an exchange of views on those issues and we believe that this is something that could be useful for all Member States and they could think about how certain provisions that would be relevant could be incorporated in to their domestic legislation. We think that's the purpose of what we are doing. We don't think that we are necessarily talking about negotiations that would lead to a binding international agreement or Treaty of some kind. We think rather at this stage we are talking about basic issues that could be a basis for discussion. In the interest of all countries to allow them to adapt their legislation accordingly. And we therefore think that any question of consolidating or not consolidating proposals is entirely within the purview of Member States.

CHAIR:

Thank you Italy. UK has the floor.

UK:

Thank you, Mr. Chairman. We would, of course, like to support the statements made by the EU, Germany, Italy and the one made on behalf of Czech Republic on behalf of the CEBS group. We do agree with Kenya that this is a formal meeting. We also note that this -- that this is a -- different WIPO Committees have different mandates. We have to be

careful to not draw parallels between different commitments with different mandates. We also note there is no convergence on what should be done with the proposal to merge different proposals and therefore we do believe that it is a task for those who are proposing those motions that work on it and come up for the next session with some kind of new version of that paper. We would also like to ask you maybe to skip this morning's coffee break. We know that we are under some sort of a time constraint bearing in mind that we will have to wrap up this session at 6 p.m., we want to devote as much time as we can for to continue this discussion and we know that there is still some other issues on the agenda. So we would prefer not to have this coffee break this morning. Thank you.

CHAIR:

Thanks for that suggestion. France has the floor

FRANCE:

Thank you, Chairman. And thank you very much for giving me the floor. I'd like to reiterate our trust in you as Chairman of this meeting and I say that on behalf of my Delegation and on my own behalf as well, of course. I am taking the floor to support what has been said by the EU, Germany, check Republic on behalf of the CEBS group and Italy and last

but not least the United Kingdom. Our Delegation would be very interested in continuing to work on the various proposals which have been made and obviously it is up to the Delegations

who have proposed text to modify them or to amend them. However having said that and concerning what has been said by the Secretariat as far that is concerned it seems to me that this might be a rather complicated task bearing in mind the elements which are contained in the various proposals. I also think the decision on the matter falls entirely within the pursuit of the Delegations who have proposed the wording. Let me also say that I think it is a good idea to keep this heavy burden away from the Secretariat because it has a great deal to do already in servicing this Committee. So I don't see any reason why they should have even more work piled upon them and end up working around the clock in order to complete it. Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from France for his opinion. Ecuador has the floor.

ECUADOR:

Chairman, thank you. Since our Delegation has expressed quite a few concerns in the course of this Committee, especially on this issue, and given that we understand the burden of work on the Secretariat involved in producing all the documentation,

I've held consultations with the vary proponents of proposals and several topics and what we suggest is this the work with which the Secretariat has been entrusted could be done by us and as a result I would hope that we can come up with text that would have been worked on and agreed by the various proponents together.

CHAIR:

Thank you for the Distinguished Delegate of Ecuador for giving the text. So that's a message for those Delegations who have expressed concerns. I think we can regarding the work undertaken by in this looking for some common grounds on the text presented by different Delegations. So probably if we confirm so the time and the concerns that have been expressed have been tackled with this declaration from Ecuador. It is the time to listen to Greece.

GREECE:

Thank you, Mr. Chair. Since this is the first time that our Delegation is taking the floor we would like to congratulate you on the Chairmanship of this Committee. We would like to fully support the statements made by the European Union, Germany, the CEBS group, Italy, UK and France. Moreover we are also worried about time constraints since many of the Delegates need to leave this room at 6 p.m. in order to catch their flights to return home. Thank you, Mr. Chair.

CHAIR:

Thank you very much for your declaration. I think all of us we are worried about the use -- efficient use of time but as far as I know we are within the scheduled discussion on the different topics. So we share your concern. And I am sure that with your collaboration we will fulfill the mandate we have. Is it time to listen to Poland?

POLAND:

Thank you, Mr. Chairman. And good morning, to everyone. I take the floor in order to show the support of this Delegation for -- to the interventions that were made by EU, Czech Republic on behalf of CEBS, Germany, Italy, UK and Greece. We support those interventions on the nature and also the interventions that were made on the process. Thank you very much.

CHAIR:

Thank you very much for your declaration. Venezuela has the floor.

VENEZUELA:

Chairman, thank you. Chairman, this discussion is beginning to remind me of the humanitarian issue discussions in Marrakech three, four five years ago we had the European Union participating similarly in the discussion as well. My son came with me to one

of the discussions once and he said dad, it is funny what happens here. These people spend a lot of money and they come here to exchange experiences but experiences on things which are very boring. Surely they do it more enjoyably on the beach with a glass of wine. Having said that I would like to thank the United States for their suggestion of the it is clear that they are taking these matters seriously and that is very, very welcome. I am also grateful to the EU for tabling a proposal which suggests that they are willing to make further progress, even if they haven't gone in to the details of proposal. Now turning to the Secretariat, I know that the Secretariat will be as effective and efficient as possible in doing its job but when comes to drafting text I am not sure that's the Secretariat's job really. I don't think it should be of too much of a concern or burden to them it is really up to Delegations. Now we are getting in-to-a bit of a discussion here, and we don't have the time to do so. So I suggest that the Secretariat to stick to doing the work which it has expertise and we get on with what the rest of us has to do.

CHAIR:

Thank you. Uruguay.

URUGUAY:

Very braefly because I don't want to take much time. We don't have that much. It is obviously that the proponents have agreed to work on this. And personally speaking would I be happy to report that back to my capital and helping in any way that I can. I think we could get down to work with the other proponents in order to merge the text. I don't think it is necessarily 15, 16, 17 countries to say one after the another whether they are in I agreement or not. If the proponents can agree on merging the text that's great.

CHAIR:

Japan. No Japan does not want the floor. Thank you. Lithuania. I do apologize. Wrong country. Latvia.

LATVIA:

Thank you, Mr. Chair. Since it is the first time our Delegation is taking the floor I would like to congratulate you on your re-election and successful bringing forward the Committee's work. We would like to express our full support of the statements of the European Union, Germany, Italy, UK, France, Greece, Poland and CEBS group. We consider it important to have broad discussion on exceptions and limitations for libraries and archives within the framework of this Committee. Therefore we do believe that work current working

documents should be continued and shouldn't be narrowed. We would also welcome discussions on the U.S. proposed document on objects and principles for exceptions and limitations for libraries and archives in next meeting of the Committee. Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from Latvia for that suggestion but I think that we have heard some sort of solution of what has arise this morning. Of course, those points of view that have been expressed repeatedly have been taken in to account. And I think that probably we can move on. I have received a request to stop the coffee break but since the coffee is there and available, you are free to some individually to go and have coffee and come back. Now we have the remaining five requests from the NGOs to complete the discussion on contracts. And we have a remaining big topic that is exceptions and limitations from educational teaching and research institutions. So in order to see how we are going to proceed, we ask the regional coordinators to come for a coordination here at the table for a minute while you are invited individually to take a brief coffee outside. Regional coordinators please approach and we make three minutes pause. (Brief break).

CHAIR:

Thank you very much to all of you and welcome back. Thank you for the pause. With the patience of our NGOs that have requested for the floor for the giving us contributions for the topic No. 10, of contracts, and considering the constraints of time we have after consultation with regional coordinators we have agreed to start the discussion on the following issue in our agenda and that is the exceptions and limitations for educational teaching and research institutions. Of course, at the end of this discussion we probably will receive some comments regarding this previous topic and those will be welcome. So because it will have impli kasys in the way that we move forward and in the way we are going to work in the future.

So considering that and thank you we have the interventions to be followed in other occasion. We can start with the topic of exceptions and limitations for educational teaching and research institutions. So we open the floor for this. And India has the floor.

LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL, TEACHING AND RESEARCH INSTITUTIONS

TRANSCRIPT- NATION STATES

INDIA:

Thank you Mr. President. I'd like the document on exceptions and limitations on libraries and archives, the exceptions and limitations on educational and research

institutions document does not have any serious legal proposal from the Member States. So I suggest that the line may be fixed so that Member States can go back and then prepare their legal proposals and send it to the WIPO Secretariat before the next SCCR starts so that we can

have serious discussions on the limitations and exceptions on educational and research institutions. Thank you.

CHAIR:

Thank you very much the Distinguished Delegate from India. Mexico has the floor.

MEXICO:

Thank you very much Chairman. Since you have now invited us to move on this agenda item would I like to make the following few comments. For Mexico education and research quality education and research are of massive importance. Therefore within our national development plan we have a whole series of action lines such as developing human potential with the provision of high quality education, a national educational materials development policy so that we can have the right materials teaching tools that we need in our schools and colleges and the building of digital prator platforms that will expand access to educational content as far as possible. We have also committed ourselves to developing our higher education establishments and research centres to as to encourage technological innovation and the promotion of self-employment among young people. At the same time we are I troog to provide incentives and encourage the registration of Intellectual Property in higher educational institutions, research centres and throughout the scientific community. Mexico is convinced that one way of supporting education and encouraging science tick education and research of high quality is through improving access to works which are protected by the copyright and that both nationally and internationally. Given the situation and on the basis of its convictions within our legislation we have provided provisions on exceptions and limitations for educational and research institutions and

establishments. We are certain what we need is an appropriate balance between the rights of copyright holders and public interest. Therefore we give our fullest possible support to the consideration of exceptions and limitations for education, teaching and research institutions. Thank you, Chairman.

CHAIR:

I thank the Distinguished Delegate of Mexico for a very clear statement. And I now hand the floor to the United States of America.

UNITED STATES:

Thank you, Mr. Chairman. As President Obama has said education is no longer just a pathway to opportunity and success it is a prerequisite for success. The copyright system including appropriate exceptions and limitations plays a critical role in

developing and disseminating works of authorship used in education and in promoting educational teaching and research objectives. This morning the U.S. Delegation would like to introduce our draft objectives and principles on copyright exceptions and limitations for educational purposes and to launch a conversation in this Committee to develop a shared understanding of how such objectives and prin Pells could advance our work in this area many

I believe the Delegates already have at their desks a copy of the document. As we noted in our intervention on exceptions and limitations for libraries and archives in the view of the United States individual countries should have the flexibility to tailor limitations

and exceptions to address their own circumstances and needs, within the constraints of international obligations taking in to consideration their specific legal cultural and economic environments. The same premise which is a bedrock principle of the International Copyright System informs our views on exceptions and limitations for put forward by WIPO Member States. Doing so can benefit all countries and improving the scope and effect of our own national exceptions and limitations. And without imposing a one size fits all template on any specific type of use. To advance that discussion as promised at the last session of the SCCR the states is pleased to present our draft principles and objectives. The U.S. acknowledges that

many Delegations are still in the process of reviewing this document and the conversation that

begins today will be continued in future sessions of the SCCR. But any rich and sustained discussion needs a starting point and we'd like to start that conversation today by introducing these objectives and principles. The document is placed in a framework that takes note of the critical role of the copyright system as **(some text missing)**

SENEGAL:

Good afternoon, Chairman.

Having extended to you my congratulations on your election, I would now like to address this assembly. Senegal would request that on the agenda of the forthcoming session of this Committee we include an item which is very important to us, and in fact, we in Senegal for many decades now have been renowned because of the great artist that is have come from Senegal, and the works of those artists are known throughout the world. At present, Senegal actually hosts the biggest African event dealing with the visual arts, that is the Dakkar Biennial. Now, I am saying all of this to indicate to you the fact that we are very much aware of the importance of the issues we deal with in this Committee. And for that reason, we would like, particularly in the light of the fact that Usman Sol has joined the French Academy recently, to note the importance of artistic works to us. Nonetheless, despite the fact that there are many major artists who have contributed greatly to our culture and yet who die in poverty, who end their life in great hardship, and they, then, are living in poverty, dying in hardship, despite the fact that their works are being traded and, indeed, a great deal of money is being spent on trading those works. I, therefore, believe that copyright actually encompasses justice. It encompasses rights for artists and creators, those

who are responsible for creating works. And it seems to me that we have to ensure that we can still have artists in future. And for that reason, we need to have their rights protected. And it seems to me this is not something that's incredibly complex. It's not extraordinarily difficult. And therefore, we would like to have an item included on the next agenda dealing with the issue of artists' resale rights. And this is something that we would call for others to support, the inclusion of such an item on the agenda of our next meeting, because we believe that this is a very important issue, and it is still a cause of considerable injustice throughout the world, the issue of artists' resale rights to be included on the next agenda.

CHAIR:

Thank you to the Distinguished Delegate from Senegal. Congo has the floor.

CONGO:

Thank you, Chairman. Chairman, following on from Senegal, I would like to convey to you the greetings of Congo lease visual and other artists, and artists in Congo today feel a certain amount of concern, and they have asked us to transmit this concern to you. Congo is party to the Berne Convention on the Protection of Literary and Artistic Works, and that means that in our national legislation, we have, indeed, included provisions on artists' resale rights. Nonetheless, many of our visual and graphic artists, many of them working in Brazaville today within a school, see that in fact their works are being traded by art dealers, by people who run galleries and trade fairs and so on, and they are not getting the resale rights that they should enjoy. They are not able to enjoy protection of their works beyond national boundaries, and this is a very serious concern for them. In the light of the point that has been raised, then, by Senegal, I would like to underscore that concern, and certainly, cono lese artists have two specific concerns at present. There is, for example, Nicola Tkongo, whose work, the crowd, was then used by the congol east post on a stamp without anything being provided. He then challenged the post administration, but he, in fact, won only a modest sum of money. Another of his colleagues, Francois Moke, who has, indeed, painted a very famous painting entitled "The Little," has this very successful work, but he's not able to benefit from it. He is not getting the kind of profit he should because this work is now available throughout the world, but he is not getting the rights he should, and this is because there are no international resale rights. In fact, we have seen that works can be sold through different trade fairs or auctioned without the artists getting the rights that are their due. We, therefore, would like this issue of artists resale rights to be included on the agenda of the next session of this Committee. I think that this is, indeed, the time and place to invite Member States of WIPO, as, indeed, Senegal has just done, to recognize this concern and to ensure that creators, wherever they may be throughout the world, are able to get the rights they should enjoy on resale of their works.

Thank you.

CHAIR:

France has the floor.

FRANCE:

Thank you, Chairman.

Chairman, I've asked for the floor because I would like to thank the Delegation of Senegal for the proposal they have made with reference to our future work and the idea of including the issue of artists' resale rights on our agenda.

My delegation believes it would be an excellent idea within the SCCR to start discussing this issue. This is an important part of intellectual property, artists' resale rights, and I would, therefore, like to endorse what has been proposed by Senegal and what has been said by Congo, and I would support a proposal to add this matter to the agenda of the next session, and I am already looking forward to a discussion at the next SCCR on the issue of artists' resale rights.

Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from France. It is the time to listen to Cote d'Ivoire.

COTE D'IVOIRE:

Thank you very much, Chairman.

Chairman, my delegation is taking the floor for the first time, and for that reason, we would like to congratulate you on your skillful chairmanship of this Committee. We would also like to endorse the proposal put forward by Senegal, one of our sister delegations, and we too would like to see the issue of artists' resale rights be included on the agenda for the next session.

CHAIR:

Thank you to the Distinguished Delegate from Cote d'Ivoire for his suggestion. Germany has the floor. Germ germ thank you for giving me –

GERMANY:

Thank you for giving me the floor, Mr. President. We also would like to have this issue discussed here, maybe not in the next SCCR, but in general.

CHAIR:

Thanks to the Distinguished Delegate from Germany for that suggestion and the flexibility shown on the placement of this topic. European Union has the floor.

EUROPEAN UNION:

Thank you, Mr. Chairman. We thank the delegates of Congo -- delegations of Congo and Senegal for that new suggestion of artists' resale rights. We support to have this item of artists' resale rights, just like any other possible new items for the future work program of the next Committee of the SCCR. Thank you.

CHAIR:

Thank you for that. India has the floor.

INDIA:

Thank you, Mr. President. Artists' resale rights is very interesting, the topic, and it's very dear to me personally. In India, I am trying to gather some support so that artists will come together and form a copyright society. And Indian Act does respect the Article 14 which was introduced in the Berne Convention in the recent conference of Rule 1928, which takes the French law and then introduced in the Berne Convention. Thanks to the French property law, which recognizes the resale right and which is converted to the betterment of artists during the post-World War period. Then we observe that many Indian artists' paintings are resold for millions of dollars. Example, a couple of months back, I come to know Wassadail Cogadai. His painting was sold for more than 20 million pounds. So we don't know how much resale right percentage as per the Indian Copyright Law it has gone to them. Many senior educators consulted me that the procedure is when asked to file an application before the Copyright Board, then only the Board will fix in the absence of any society registered in India. It is an interesting topic, and we have to support the artists. Many artists, you know, they are not getting the resale right or royalties. Indian delegation supports the proposal to introduce this as an agenda item for discussion so that how better we can support the collection of royalties for the resale right for artists all over the world. The problem with the Berne Convention is it only gives a kind of optional right for the member countries. And then there is a reciprocity based on that option. So we ought to move forward from that option so artists from all over the world will benefit based on future discussions on this topic. Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from India. Italy has the floor.

ITALY:

Thank you, Chairman. Chairman, I would like to thank Senegal and Congo for having put forward a proposal, and we, too, support that proposal.

CHAIR:

Thank you very much, Distinguished Delegate from Italy. Czech Republic has the floor.

CZECH REPUBLIC:

Thank you, Chair. I would like to thank Senegal and Congo for their proposal on behalf of the sense group, the CEBS group can support this proposal. Thanks.

CHAIR:

Thank you very much to Czech Republic and his group. Germany -- sorry. U.S. has the floor.

UNITED STATES:

Thank you, Chair.

The United States would also like to thank Senegal and Congo for this proposal. We think it's a rich and important issue to discuss. Unfortunately, we'll need some time to consider whether to add it to the agenda for the next session. As you know, we do have a full agenda right now. We are not able to get through all the items. Again, we'd just like some time to consider it.

Thank you.

CHAIR:

Thank you very much for that to be reminded. Morocco has the floor.

MOROCCO:

Thank you, Chair. Morocco would like to express its support for the proposal by Senegal and Congo regarding resale rights for artists. We agree to adding this item to future agendas of SCCR meetings with a view, in fact, to compensate this group of artists, especially for the sale of their works beyond their national borders. Thank you, sir.

CHAIR:

Well, thank you to the Distinguished Delegate from Morocco. Japan has the floor.

JAPAN:

Thank you, Mr. Chairman.

Japan would like to say thank you to the suggestion by Distinguished Delegate of Senegal. However, Japan needs more time to consider about whether or not the resale rights would be included in the agenda. Thank you.

CHAIR:

Thank you very much. Venezuela has the floor.

VENEZUELA:

Thank you, Chairman. Chairman, I'm just receiving instructions from our capital, who could possibly oppose the rights of creators and artists? I don't think anyone could deny them these rights. But in my country, the path to hell is paved with good intentions, and we're talking about maturity of certain topics and preagreements, if you like. Because we've been working on this all week and talking about next week as well, and I think that some countries in Group B have said they support certain things, and I support them in their support, and I wonder whether this topic, if we introduce it, will be worked on in the first session because there's so much enthusiasm from developed countries in introducing last-minute topics. And I say to you there is no problem and I agree with you, but it's not mature, necessarily. And I remember our discussions on people with visual disabilities, and what we said about the Caribbean, and in 2010, at the time there were proposals that weren't even on the table and weren't ready, if you like. And there was a delay -- a four-year delay in getting these people their rights. And I like the proposal and I agree with it in principle, and I'm happy to support anything that will Ben if I have the creators and artists, and we certainly will support this. But everything has the right time, and the time may not be ripe for this, and we'll need to discuss it further, perhaps, and ensure that there's a preagreement for the next session. And of course, obviously, last-minute suggestions, if this topic is going to be discussed, it needs to be done in a first section of the next session, the very first section, because as you all know, my country is not so interested in broadcasting. We need this to be decided, first of all, and we don't want to -- make sure we've got enough time for everything. Thank you very much.

CHAIR:

Thank you very much to the Distinguished Delegate from Venezuela. And it's time to listen to Kenya.

KENYA:

Thank you, Mr. Chairman. We support the possible inclusion of the resale right to the future agenda, as we recognize that the visual arts may have been disadvantaged in the various ways

that have been elucidated by the Distinguished Delegates who have spoken before us. It is our humble request, however, that even as this request is considered, that Member States take caution to ensure the agendas that are currently before this Committee are not overshadowed by newly introduced topics. Thank you.

CHAIR:

Thank you very much for that warning coming from the Distinguished Delegate from Kenya. Switzerland has the floor.

SWITZERLAND:

Thank you, Chairman.

Chairman, our delegation would like to endorse comments made here by the U.S. and Japan with reference to the last-minute proposal that we include artists' resale rights on the agenda for our next meeting. We do not understand exactly on what basis this proposal is being made here, and we would like to have more time to evaluate it. It's not that we are denying the relevance of the issue; however, deciding to discuss a new topic like this has to be taken in the context of a discussion within this Committee on future work, a general discussion on that issue. Further, it appears to us that we already have a heavy agenda. We have important matters to discuss. Work has already begun on some of these important issues. Work is at different levels of development. The texts are developing, not at the same right, but they are all developing. We think that introducing a new topic at this stage would just hold everything up and make slower progress across the board and, therefore, it would prevent us making effective progress. Thank you.

CHAIR:

Thank you. It's time to listen to Brazil.

BRAZIL:

Thank you, Mr. Chairman. Good afternoon, everyone. I just wanted to join and echo the comments made by the U.S., Japan, and Switzerland. We agree 100% with those comments, and we, too, are not in a position at this moment in time to position ourselves towards -- in relation to this proposal. We will be considering it. Thank you.

CHAIR:

Thank you very much to Brazil. Uruguay has the floor.

URUGUAY:

Thank you, Chairman. It's inevitable that I make a statement. To date I haven't seen any formal proposal from my colleagues. We've seen everybody negotiating, and I am surprised

to see colleagues who say to me every day what they are doing and never have they mentioned this matter. And when I see the text proposal in front of me, all other matters that had something behind it, I don't know how to react to this. I can't really discuss future agendas because, quite sincerely, I don't have any mandate to do so from my group. And this is a new element in front of us, and quite sincerely, I don't know what to do. I'd certainly like to hear from the proponents, how are you planning to put together this proposal? How are you going to deal with other regional groups? There are so many problems. All week people have been talking to me about the maturity of the topic of archives and libraries, and at no time did anyone say they were going to bring this matter up. So I would suggest that we stop here and discuss it at the next session. Thank you very much.

CHAIR:

Well, thank you very much for the comments. We have some other countries that are on the list, and I am looking forward to hear them, but here is a time to -- if you allow me to intervene.

There have been some -- as far as I know, some requests from these two Distinguished Delegates from two countries to include in the work agenda of this Committee this new topic, and I really do not think that specifically their proposals are to consider this in the next session of this Committee. Several delegates are expressed concern regarding the difficulties we have faced in trying to foster an agreement from the beginning of the week on the allocation of time for the next -- for the next Committee, and that has been made in a very good-faith framework.

So my suggestion to the Plenary is to welcome the suggestion made by some delegates here regarding the inclusion of new topic in the future work of this committee and stopping at this time the discussion on this issue, trying to foster a conclusion that would say that delegations will further analyze this suggestion. Because you are right; we have done a lot of work on the conclusions, on the three topics we have had in agenda this time, and I am sure with the understanding of my dear Distinguished Delegates from Senegal and from Congo, I think that the intention I read was to include this in the future work of this Committee, not to change the structure of our discussion for the next session that is very controversial until now. But probably my dear friends and Distinguished Delegates from both countries will help me if I am in the right understanding of their kind proposal. If I am right, we can just then pass to other topics on the agenda. So Senegal has the floor. With the patience of Ecuador, Iran, South Africa, Senegal has the floor.

SENEGAL:

Thank you, Chairman, for your summary and your understanding of the issue we brought up. There is a principle here at stake in the issue of the agenda, and we are very flexible. If it doesn't happen at the next session, then we're happy to keep the matter on the table to see when it can be put on the agenda, and I thank you very much for your understanding.

CHAIR:

Thank you very much to the Distinguished Delegate from Senegal. My Distinguished Delegate from Congo has the floor.

CONGO:

Thank you, Chairman. Well, your conclusion has, indeed, summarized it all. I can't say it any better. The key issue for us was to bring the information to the attention of the Committee, and I do think that this has been achieved, and it's all been said properly. Thank you.

CHAIR:

Thank you to both Distinguished Delegates. In that sense, I think that we can just give -- keep on discussing our topics that have been included for the agenda on this Committee and taking in account that there have been these two suggestions to include this in the future work of this Committee. Now, in that sense, unless some delegation still wants to keep on saying a word on this matter, it might be clarified in this way. I don't see any -- European Union has the floor.

EUROPEAN UNION:

Thank you, Mr. Chair. I don't want to take time away. I thank you for your suggestion, indeed, as many delegations have supported the proposal by Congo and Senegal. We can perfectly live with your suggestion that there will be an inclusion of this agenda item in the future work, very general, of this Committee. Thank you.

CHAIR:

Thank you for that reaction. So in consequence -- oh, sorry. Switzerland has the floor. Switzerland.

SWITZERLAND:

Thank you, Chairman. We'd quite like clarification on what are we intending to do with this proposal exactly. As we understood it, the discussion on possible inclusion of this topic on the agenda of a future session will take place at the next session, not that there's already some agreement on putting it as an item on the agenda at the next session already. Thank you. Could you clarify?

CHAIR:

Thank you. Well, I will clarify that the proposed conclusion on this matter is that some delegations, two specific delegations, suggested the inclusion of this new topic on the future work of this Committee. Period. If some delegations want to say that several delegations

express support for that, that might be discussed in the conclusions part, but I think at this point, that will stop a side discussion on this matter. So is that okay with you? I see you affirmatively supporting what I say. Thank you very much for that. So in order -- do we have any other other matter on the agenda which might not be as explosive as the previous one? We have something very, very short that is the stakeholders platform, so please, Michelle, if you could, or Secretariat will bring us information regarding that.

SECRETARIAT:

Thank you, Chair. This document is SCCR/27/4, was posted on the Web and is included as a sub item under Other Matters on the agenda. This is the 8th Interim Report of the Stakeholders Platform. Given the time, I do not propose to go through the document in any kind of detail. The document summarizes the last meeting of the Stakeholders Platform and proposal to evolve the platform into an accessible books consortium that would be formed to carry out the same functions of doing things like capacity building and inclusive publishing and working on the Tiger, trusted intermediaries global accessible resources project, and the Committee is asked or invited to take note of the information contained in the document which was made available to all Member States. Thank you, Chair.

CHAIR:

Okay. So the suggestion made by Secretariat regarding this point of agenda is to take note of this document. If there's a different view on that, please let me know. If not, we can say that the Committee takes note of the document, and we follow to the next item in the agenda. Okay. Thank you very much to the Secretariat for this summary of the previous document which has made possible for this Committee to take note of that content. Now we are in condition to pass to the topic of the conclusions on the different topics we have -- on the different topics we have -- oh, sorry. Mexico has the floor for the previous topic. Yes?

MEXICO:

Thank you, Chairman. I don't want to hold up our work. I just wanted to ask the Secretariat something about this topic that wasn't discussed. What are the implications of the fact that the Committee takes note of the document? Does that mean that we need to ask for formal authorization? Because we have no objection to the topic, but I just want to understand what are the implications of taking note of this report? Could you tell me that, please? Thank you.

CHAIR:

I thank the Distinguished Delegate of Mexico for the question. And I'll ask the Secretariat clarify the scope of the taking note of a document, what that actually means. Thank you.

SECRETARIAT:

Well, in terms of taking note of a document, this means that the document has been brought before the Committee formally, and the Committee has seen the document, has reviewed it, has taken note of it. The Committee isn't taking any other decision with respect to the document, but it is an acknowledgment that the document has been presented to the Committee, essentially for its information.

CHAIR:

If we don't have any other clarification regarding that, so we go to the -- in consequence, we can go to the other items on the agenda, conclusions regarding our topics of discussion. So we'll start with the draft conclusions. You have been distributed draft conclusions. So my suggestion is to start with the first topic we discussed during this week, the protection of broadcasting organizations. In order to avoid confusion regarding the order of the document, we will ask clarification from the Secretariat regarding the way this document has been presented.

TRANSCRIPT- DISCUSSION ON THE CONCLUSIONS

SECRETARIAT:

Sure. Thank you, Chair. So the intention was actually to present the document in the order in which the topics were discussed in the Committee. We apologize. The final page, apparently, is at the beginning of the document, but we should actually start on the second page with protection of broadcasting organizations, then we would go to limitations and exceptions for libraries and archives, then limitations and exceptions for educational and research institutions and persons with other disabilities, and finally, next session of the SCCR. Thank you.

CHAIR:

Thank you for that clarification. I think it's useful to know that that is not the order of the document. Since this is a draft document, we can start with the discussion of draft conclusions for the protection of broadcasting organizations. So we open the floor for that review. What we can do is to ask the Secretariat read it out loud, and we go paragraph by paragraph, so I ask kindly to the Secretariat read paragraph by paragraph. So we will make consultations after each paragraph.

SECRETARIAT:

So with respect to draft conclusions on protection of broadcasting organizations, paragraph 1 reads: Based on the outcome of the 26th Session of the SCCR, the Committee considered Articles 6 and 9 of the working document for a Treaty on the protection of broadcasting organizations and the proposal on a Treaty on the protection of broadcasting and cablecasting organizations. Sorry. I should have read the document number. So on the protection of broadcasting organizations, SCCR/27/2 rev and the proposed proposal on a Treaty on the

protection of broadcasting and cablecasting organizations, SCCR/27/6, presented by the delegations of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan, Ukraine.

CHAIR:

Thank you very much. Is there any opinion regarding this paragraph? I see none. May we consider it approved? Yes. Thank you. First paragraph approved. Second paragraph, please, Michelle.

SECRETARIAT:

Following are proposals submitted by the delegation of the United Kingdom contained in document SCCR/27/3, a technical presentation was made to the Committee by an expert of the British broadcasting organization, BBC, on types of advanced technology being used by broadcasting organizations.

CHAIR:

Any comment regarding this paragraph? I see some deliberations regarding this. I see none, so we can consider it approved. Thank you. Third paragraph, please.

SECRETARIAT:

Technical working non-papers which addressed issues relating to the categories of platforms [and activities] to be protected under the object of protection and the protections to be granted to broadcasting organizations were taken into account in informal discussions. These discussions were instrumental in helping to clarify various technical issues and delegations' positions.

CHAIR:

India has the floor.

INDIA:

Thank you, Mr. President. There are two issues in paragraph 1. We should remove the square brackets because we not only onlyed platforms, also the activities, like simulcasting, near simulcasting, deferred, delayed, such. Number two, in the third line of the third paragraph, granted to broadcasting organizations, after that, we ought to insert "in traditional sense." Thank you.

CHAIR:

Regarding the proposal and Indian suggestions. Japan has the floor.

JAPAN:

Thank you, Mr. Chair. On behalf of Group B, first I would like to support the Indian's comment of the insertion in the second line. We think "and activities" should be included in the second line. At the same time, just for the sake of accuracy, in the third line, the word "protection" appears as the third word in the third line, and it should be replaced with "rights." So "rights to be granted to broadcasting organizations." Thank you, Mr. Chair.

CHAIR:

Thank you very much to the Distinguished Delegate from Japan. We have suggestions from India and suggestion from Japan in the name of Group B, so we hear opinions regarding this. Brazil has the floor. Oh, sorry, in line was -- oh, yes, Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. I would just like to seek clarification through you, Mr. Chairman, if I may, with our colleague from the Japanese delegation. If I well understood what he just proposed, it was that in the third line, we add the word "and rights" so it would read "and the protections and rights" or we would replace "protections" for "rights." But in any case, I would like to seek clarification on the what exactly is the purpose of this suggestion, what exactly Japan sees the differences between using protections and rights, what are the implications of this selection of a different word to express what has been expressed in paragraph 3. And just for the register, in general, we are fine with the language in paragraph 3. Thank you.

CHAIR:

Thank you very much for the Distinguished Delegate from Brazil. There is a question to Japan. I don't know if he is ready to answer it. If not, we can hear U.S. in the meanwhile, who is next. Please, U.S. has the floor.

UNITED STATES:

Thank you, Chair. I would just like to hopefully kind of clarify that change from "protections" to "rights." I won't go into great detail, but we thought it might be more appropriate to say "and the scope of rights." I think that's what we've been talking about in trying to identify what would actually go in the Treaty. It would read: Protected under the object of protection and the scope of rights to be granted. Thank you.

CHAIR:

Thank you very much for that clarification. If Japan is ready to answer, we can give Japan the floor. Oh, that's the answer. Okay. So I see next in line is Iran.

IRAN:

Thank you, Mr. Chairman. My delegation would like to support insertion the term of "in traditional sense" after "organization" in third line of paragraph 3. Thank you.

CHAIR:

Thank you to the Distinguished Delegate of Iran. India has the floor.

INDIA:

Thank you, Mr. President. If we look at the broadcasting draft text, we discussed scope of protection, objectives of the protection, so it makes sense using the right language there. So instead of mentioning the rights, we should mention "scope and objectives of protection." That makes sense. Because we are trying to protect the protection of broadcasting organizations.

It is a signal-based approach. It is not a rights-based approach. So I think we should use the terminology here, right terminology, taken from the text which we are discussing here, which is the scope and objectives of protection, not -- we are not comfortable with the word "rights" there. Thank you.

CHAIR:

Let me ask you an additional question to my Distinguished Delegate from India, since Brazil asked for a question and then it was answered by the Distinguished Delegate from U.S. with a new proposal. The U.S. proposed using the term "scope of rights," so it will be read "to be protected under the object of protection and the scope of rights to be granted." Brazil was expressing no more -- probably that's -- yes, so I would like to ask you with this modified proposal or clarification that would change your opinion or not.

INDIA:

Mr. President, that's where we are listening. We discuss to key articles. Scope of protection, Articles of protection. So we mention here instead of addressing new language "rights."
(Switching captioner) Ask (No audio.)

CHINA

Reached scans on the term. It is to be broadcasting organizations in the original sense. Therefore, in the Draft Conclusion. We think we should add this in order to keep the precision of the document. And the completeness of the document. Thank you.

VENEZUELA:

Thank you, Chairman. Chairman, the scientist, this is your summary, this is going to be the determined summary. If it is the Chairman's summary, -- it isn't the Chairman's summary. It's a general summary, okay, I've got that. Anyway, whatever it is, I think it's, the record of the meeting. When this kind of summary is so detailed, it often leads to complications. Maybe we could be a little bit more general because we do, after all, also have a report and verbatim record of the meeting. If this summary is going to be as detailed as this, it is going to lead toll difficulties, especially at 6:00 p.m. on a Friday afternoon. Thank you.

CHAIR:

Thank you, Venezuela. The first one is including activities as suggestion from the Distinguished Delegate from India and several Delegations have expressed some support for this. So in order to be clear, is anyone against including an activities after platform? I see no opposition. So we can consider now that, remove the brackets from "and activities." Regarding the suggestions to change protections by rights," we have three different elements here. One is to change protections by rights". The other one is to add the term "scope of rights" to the new suggestion of rights, to say object of protection and the scope of rights. And the third suggestion comes from the Distinguished Delegate from India, using the term "under the object and scope of protection." trying to include under those matters both topics. Let's say scope of protection and rights. So it will be interesting to hear the decision regarding these three elements. It seems to me that it is possible to reach an agreement on this matter because they are implying the same, just as the best way to reflect that. So we hear your views, especially the proponents of the modifications regarding these suggestions. I see no, but let me suggest one from the Chair. If you remember, we presented some charts here. And this paragraph referred to those charts. The three amendment proposals are written in substance. We don't see a big disagreement on this. However, the compromise because some Delegations have expressed reservations on the terms rights, even if we discuss about rights. It might be waived if we used the final India suggestion regarding object and scope of protection. If you agree with that, I think that both topic will be covered. Well, okay, thank you very much. I was highlighted that we had a term before our, in the same line which says "platforms and activities to be protected." in order to avoid the repetitious of the to be protected under object and scope of protection, the Chair's suggestion is to say "categories of platforms and activities to be included under the object and scope of protection." In that sense, we don't make a repetitious of the term

protection or protected. In that sense we cover, I think, the three concerns, different concerns that have been made. I see different Delegations saying it is possible. So is there opposition? If not, we can consider with that modification approve the third paragraph. Thank you. Go to the fourth one. Just to clarify, let's ask the Secretariat to read out loud this third paragraph as approved.

SECRETARIAT:

So paragraph 3, technical working non-papers which address issues relates to the categories of platforms and activitying to be covered under the scope and protection to be granted to broadcasting organizations in the traditional sense were taken into account in the informal discussions. These discussions were instrumental in helping to clarify various technical issues and Delegations' positions.

CHAIR:

Thank you. So now we go to the fourth one and we read allowed the proposal as it is.

SECRETARIAT:

Paragraph four, during the discussions, it was understood that broadcasting, wireless or by wire.) cable casting, subject to clarification of the similar legal treatment of cable casting organisations and national laws, and pre-broadcast signals should be included in the scope of application of the proposed treaty on the signal-based approach. Some Delegations were of the view that such protection should be mandatory under the treaty.

CHAIR:

Open the floor for comments for the fourth paragraph. India has the floor.

INDIA:

Thank you, Mr. President. In the fourth paragraph, full sentence, ending with the signal-based approach we would like to include in the traditional sense there. Thank you.

CHAIR:

Japan has the floor.

JAPAN:

Thank you very much. We are fine with the content of the original proposal related to Paragraph four, but just one cosmetic proposal. We would like to add parenthesis with the phrase "starting from the second, subject to clarification of similar treating of cable casting organisations in national laws. We would like to add a parenthesis around the phrase

which was read now.
Thank you.

CHAIR:

Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. Mr. Chairman, let me say from the start that my Delegation is basically fine with the language in Paragraph four as it is. We have one minor comment on this, but I will make it. Before I do that I would like to, through you, ask the Distinguished Delegate from Japan if he could please elaborate more on the need to put that sentence between parentheses. I understand it is parenthesis and not brackets. But I would like then to further understand what the difference would be to actually put that particular sentence within parentheses. This is my first point. My second point would like, would be to suggest that perhaps we could delete the words "a similar", " a similar" from the second line there and to replace it with "the legal treatment for cable cast organisations." The reason for that is simple. When we say a legal simple legal -- we are already prejudging that the treatment of cable casting organisations in national laws would be similar to the treatment given to broadcasting. And that might eventually, or might not just be the case. Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from brads for clear explaining, but there is a question to the Delegate of Japan. With the patience of U.S., we can hear the Japan niece answer. Japan has the floor. While he is still under consideration, the U.S. has the floor.

UNITED STATES:

Thank you, Chair. I'm just coming back to India's proposal to add "in the traditional sense" after approach in the fourth line. We just want to make it clear that in the traditional sense" modifies" broadcasting and cable casting organisations" in the mandate and it doesn't modify everything in the mandate. We would oppose that inclusion. Thank you.

CHAIR:

Thank you for that. Japan received the question from Brazil. If it is ready, you can answer, please. Japan has the floor.

JAPAN:

Thank you very much, Mr. Chair. I would like to confirm the parenthesis and not a bracket. It is just for the clarity and readability, subject to clarification -- in ... in national laws is explanation and clarification. Therefore, go in part. So we to differentiate the main part and the

clarification part for the sake of readability and clarification, we would just like to add the parenthesis allowing the phrase. That is the purpose of my proposal. Thank you, Mr. Chair.

CHAIR:

Brazil has the floor.

BRAZIL:

Thank you very much, Mr. Chairman. And allow me first of all to thank the Japanese Delegation for clarifying their proposal. Thank you very much. Having heard the explanations given by the Japanese Delegation, I have to say that I don't see strictly any difference whatsoever in this sentence, with or without parentheses. Programmes the native speaker of the English language can give me a clear sphrings that this sentence m become more clear with a parentheses with this sentence between parentheses, I would strongly suggest that we don't go down that road and that we stick to your original text. Thank you.

CHAIR:

Thank you very much. We will take your suggestion and we will ask the native English speaker

I have on my left side to bring us some opinion regarding that being slottedly neutral. Michelle, you have the floor.

SECRETARIAT:

Thank you, Chair. Well, you know ... **(Laughter.)** It's a little bit difficult to reply on, but I think one could see the parentheses as putting a sort of clear line around what applies back to cable casting, but it is also true it is not essential in this sentence. So truly, I think it is a matter of preference, of style as to how one expresses this thought. I can imagine there are other native English speakers who would have other views owe this. We can spend a lot of time debating this, which doesn't seem like what Delegates want to do at this hour. So Mr. Chair, I am sorry I can't help more than that.

CHAIR:

Thank you very much for that. Italy has the floor.

ITALY:

Thank you, Chairman. The point on our methods in general actually. The text here is a snapshot of everything that has happened in the course of the meeting. It is not really the text of a legal instrument. I, therefore, think we should try to report what has happened. I don't think we should start popping in things that we would like to see included in the text or which are

effectively our interpretation of the text. So basically, I agree with the United States on the wording "in the traditional sense." that wasn't provided in the text and wasn't the subject of specific discussion either. Frankly, I don't think it needs to be included in the report either.

CHAIR:

Thank you very much, Italy, for your opinion. EU has the floor.

EUROPEAN UNION:

Thank you, Chairman. We wholeheartedly agree with the point that has just been made. Also heard the plea from the Chair to perhaps consider our position. I think we've got something like 20, 26 or 27 more paragraphs to get through before we can conclude our work this evening. And I think we've reached 6:00 o'clock, which is the time we were meant to stop our work. In the interests of taking us forward, we could be flexible on this.

CHAIR:

Thank you very much for that. We have Chile and China and then we will give an opinion to you. So Chile has the floor.

CHILE:

Thank you, Chairman. And good evening, everyone. Far be it from me to delay the discussions any further but we would like to support the proposal made by the Brazil Indian Delegation about the possibility of the inclusion he put forward. We would -- (Brazil Indian Delegation.) we discussed this issue. Yorm there having been a discussion on this particular issue. In our case, it would be a more appropriate to follow the wording he suggested. Just found out, and here, of course I'm open to correction by yourself or by anybody else. It is that there has been has been an understanding that pre-broadcast signals should be included in this scope of application. Our Delegation isn't 100 percent clear about this. I don't have a specific textual proposal to make. I just have a qui, an open question which I am asking of you, Chairman, the Secretariat and the other members. Thank you.

CHAIR:

Thank you very much, chail lay. Since -- Chile. Since Paragraph four is here in the text for discussion, obviously opinions can be expressed on any element of the paragraph. China, please.

CHINA:

Thank you, Chairman. I'm very sorry, but I hope that the Secretariat could help me out. Cable casting, is that indicated in the general sense or in a narrower sense? We would like cable casting in the traditional sense" to be mentioned. I hope that the Secretariat could shed some light on the use of the the words here for me. Thank you.

CHAIR:

(some text missing) to change "a similar" and use "the legal treatment of cable casting." that's the first one. If Brazil has listened to my that's what I'm proposing. Second thing is, -- should I repeat that? It is to change "a similar" to "the similar" as you suggested and proposed by Chile. That's what the countries who proposed this position and we took that in account. Then there is the suggestion to include parentheses, very respectful from Group B. And we asked and put in some problems to the Secretariat in order to give us some insights or inputs regarding the use of the English language. I know that there are some native speakers, English native speakers here, regrettably they are Delegates. That's why I asked for the Secretariat to do so. And if it is a matter of style, so I beg you to not insist in the use of these parentheses, since that does not give a substantial change on this. Regarding the third suggestion made by the respectful Distinguished Delegate from India considering adding after "on a signal based approach in a traditional sense, let me make a difference on the different uses of "traditional sense" in the discussion of this topic that has to be reflected objectively here. There was a consensus on the use of "traditional sense" for broadcasting organizations among all the Delegations here, but regrettably there was no consensus on the use of the terms "traditional sense" regarding the signal-based approach. Considering that, from this part I beg to the understanding of the Distinguished Delegate from India to remove that addition. If we consider that here we try to project objectively what has been said. So that is the Chair's proposals regarding these three items on Paragraph four. India has the floor.

INDIA:

Thank you, Mr. Chair. I do accept your suggestion, but I would like to shift that expression, in a traditional sense to the second sentence. I want to add it after broadcasts, cable casting in a traditional sense. If you look at the conclusions of 26 SCCR, the same expression has been used there, broadcasting organizations and cable casting organisations, in a traditional sense. It makes sense to use that same expression here. Thank you.

CHAIR:

Is there any opposition to the new suggestion made by the Distinguished Delegate from India? European Union has the floor.

EUROPEAN UNION

Thank you, Chair. I'm afraid we cannot agree on that because we believe that the mandate is broadcasters in the trl sense and not broadcasting in the traditional sense. Thank you.

CHAIR:

Thanks for that opinion. At this point let me suggest to you that the mandate is already there. It has not changed. So we can refer to the mandate any time we would like to do that.

So it doesn't foreclose any opinions or different views you have regarding this important issue. So if you don't mind and the Chair's suggestion is just to take the three previous elements or positions I made before. Is there any opposition to that? I see none, so we can consider the Paragraph four approved without parentheses, deleting "a similar" changing a with the, and without further additions. Thank you very much. We go to the fifth paragraph. Please, Michelle.

SECRETARIAT:

Different points of view were expressed with regard to simultaneous and near simultaneous unchanged transmission of broadcasts. Some Delegations considered such transmission closely connected to broadcasting, while some other Delegations were of the view that such transmissions required further discussion in the Committee to consider possible inclusion in the object of protection of the proposed treaty.

CHAIR:

We open the floor for this fifth paragraph. China has the floor.

CHINA:

I do apologize, Chairman. I would like to come back to Paragraph four, if I might. I don't think you actually answered my question about cable casting. Does this term include the concept of traditional broadcasting organisations or not? Thank you.

CHAIR:

I want to apologize myself to the Distinguished Delegate from China. You were right, you were raising a question. The answer I have is not a substantial one. It is a procedural one. I think that we use the term here "cable casting" and if we want to discuss the content or the scope of this term, that might be part of the substantial discussion on this matter. Now we are just trying to summarize. At this point we referred to cable casting as such. So your respectful question would be probably clarified and answered in a substantial discussion, if you don't mind. And with all my respect. I see you affirmatively accepting my suggestion. Thank you very much to the Distinguished Delegate from China. We go to the fifth paragraph. Any comment regarding this? If I see none, if I can consider approved the fifth paragraph, please say it now or ever...**some text missing** (Laughter.)

CHAIR:

Okay, approved the fifth paragraph. We go to the sixth one. Please, Michelle.

SECRETARIAT:

Discussions took place in relation to the possible inclusion of deferred linear transmissions of broadcasts and on-demand transmissions of broadcast, catch up and programme related material which will be further examined at the next session of the Committee. If such protection is to be included, further discussions will be held on whether the protection would be mandatory or optional.

CHAIR:

We open the floor for comments for the sixth paragraph. I see none. May we consider it approved? It is approved. Thank you. We go to the seventh.

SECRETARIAT:

A significant number of Delegations brackets several Delegations brackets did not agree with the possibility of including Internet originated linear transmissions in the object of protection bracket while other Delegations expressed preference for its inclusion close bracket.

CHAIR:

We open the floor for comments for these. As a matter of compromise solution, the original proposal received some suggestions. Since we are trying to reflect what has been expressed and that means all the Delegations' points of view, the Chair's suggestion is to remove the brackets from several only Delegations in the final phrase and delete a significant number of Delegations. I see no opposition. So we can consider with those changes, approved the seventh paragraph. Thank you.

SECRETARIAT:

No, he did both.

CHAIR:

So we go to the eighth paragraph. Please, Michelle.

SECRETARIAT:

In relation to the protection to be granted to beneficiaries, various approaches were discussed which will be further examined at the next session of the Committee. Some Delegations expressed support in favor of rights relate to go the transmission of the broadcast signal from fixation, while some Delegations strongly questioned the granting of rights taking place after the fixation of a broadcast signal such as reproduction of fixations of broadcasts, distribution of fixations, and performance of a broadcast signal in places accessible to the public. A number of Delegations considered that there should be exclusive

rights for broadcasting organisations while some others considered there should be a right to prohibit when third-parties intercept signal by any means.

CHAIR:

We open the comments for this eighth paragraph. I see none. Oh, sorry, India has the floor.

INDIA:

Thank you, president. A simple correction. Instead of some others, it should be many others in the last sentence.

CHAIR:

Instead of some others considered, many others considered. Okay. So just to clarify, in the final sentence, yes, that's right, the final sentence. Any opposition regarding that paragraph with the suggested modification? Hungary has the floor.

HUNGARY:

Thank you very much, Mr. Chair. I think it is quite a late hour. I don't think we should go into this kind of consideration, whether this is many or significant number. I think we should stick to very neutral language that we are used to in other Committees and don't start discussions about the various Delegations' positions. Thank you.

CHAIR:

Thank you very much for that opinion. So in that sense, we will try to reach consensus. Czech Republic has the floor.

CZECH REPUBLIC:

Thank you. I also don't think that we should go into discussions on clarifying how much means a number of and how much means significant number of and so on and so forth. But to try and find a consensus, and by that reaching out to our Indian colleague, we can just leave it while others consider there. No qualification, not some, not many, just others considered.

CHAIR:

Thank you very much for that suggestion, about qualifying the amount of Delegations. So India has the floor.

INDIA:

We are flexible.

CHAIR:

Okay. Thank you for that flexibility. So we can approve number 8 with Czech Republic's suggestion, we delete some and say while others. It is approved with that modification. We go to number 9, paragraph number 9.

SECRETARIAT:

Some Delegations requested further clarification of some technical issues at the next session of the -- it says of the SCCR.

CHAIR:

Any comment regarding this? We see none. Oh, sorry, Japan has the floor.

JAPAN:

Thank you, Mr. Chair. On behalf of the Group B I would like to adopt a more clear language about what the Delegation requested of the session. So taking account of that our suggestion would be made as follows. Some Delegations requested representation and further discussion with experts on some technical issues at the next session of the SCCR. I think that it would, that could reflect the reality in a more accurate manner. I thank you, Mr. Chair.

CHAIR:

Could you repeat it again, please? Japan

JAPAN

Thank you, Mr. Chair. Some Delegations requested the representation and further discussion with experts on some technical issues at the next session of the SCCR." Thank you.

CHAIR:

So the suggestion by EU is some Delegations requested further presentation and – on some technical issues of next session of the SCCR. Any comment on that suggestion? EU has the floor.

EUROPEAN UNION:

After discussions with Group B, CEBS is able to accept this change, after some consultations. We are able to accept these change. We would like to be assured that the time for the

technical discussions will be limited and it will not take up too much time from the structured technical negotiations. Thank you.

CHAIR:

That last part of your intervention might be dealt with the discussion of Future Work on the next session of the Committee. In order to avoid to discuss it now. EU has the floor.

EUROPEAN UNION:

Thank you, Chairman. We would like to comment in support of the point that was raised by CEBS. We want to establish a clear understanding of that at this stage to facilitate the discussions we will have on Future Work later. Thank you, Chairman.

CHAIR:

As you see, going on detail on detail on these matters may arise some concerns. So we --is Japanese or Group B's suggestion, I'm sure you want to avoid that kind of discussion as well. So probably we beg you, if further clarification might allow the suggestions, specific suggestions you can present for the work we are going to initiate in the next Committee. However, it is time to listen to Brazil.

BRAZIL:

Thank you, Mr. Chairman. I just would like to say that I coincide with the view of the Distinguished Delegate from the EU that perhaps it is a good idea to have an understanding of the issue right now. Thank you.

CHAIR:

I hear anding of the issue or an understanding of the proposal for modification presented by Group B? Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. Now, in principle, in principle I am fine with the proposal made by Group B. I was referring to the, if I correctly understood, I was referring to the last point made by our colleague from the EU responding to the comments previously made by our colleague from CEBS regarding the need to, again if I correctly captured the comments made by the representative from CEBS, that this technical discussion, if I can put it that way, should be somehow dealt with in a manner that is not, will not necktively facet technical discussions on broadcasting. Thank you.

CHAIR:

Thank you very much for that clarification. Let me remind you we are discussing conclusions and we are not discussing what our Distinguished Delegate from Czech Republic has invited us to discuss, that is the effect on the efficiency of the work if we made some technical discussions. Just in order to ease the definition of this issue, we are just trying to reflect what has been said and further clarification of some technical issues has been already, that's the expression which reflects what has happened in the discussion before. We can be remind understand and we can consider important what you said for sure. However, we are just trying to reflect what has happened. Well, just to be reminded, I beg you to consider this in your interventions. EU has the floor. Sorry, India has the floor.

(some text missing)

EUROPEAN UNION:

Thank you, Chairmanment I would like to thank the Distinguished Delegate from Brazil for searching for a solution that will get us out of this impasse. We obviously cannot redefine the mandate of, the General Assembly mandate. That is not something that any of us could agree to. We are a Standing Committee, not the General Assembly. Looking down the page, I see that paragraph 5 offers us a descriptive of what happened during this, during our discussions and the method of work that we used during those discussions. And, therefore, I would believe here is no need for additional reference to that in the second paragraph.

CHAIR:

Thank you for your opinion. What is being said now is that the reference that it is suggested in the fifth paragraph to the text-based approach, no, might be in advance accepted by European Union and in considering so, they are asking to delete the reference to text-based work in the second paragraph. But of course, we have to be sure that you will approve that phrase on the fifth paragraph. So we thank you in advance for that suggestion .I will invite the Delegations to think as I said about these conclusions in a comprehensive way considering all the set of conclusions. In doing so, Mexico has the floor.

MEXICO:

Chairman, my Delegation females that the proposal made by the Delegation of Brazil is a sensible one and could perhaps be completed by the language contained in paragraph 5 in order to avoid being redundant. So in that, based on text-based work, on the topics, et cetera, et cetera, the Delegation of Brazil is right in saying that this was a factual report. There were indeed discussions based on a text. It would be unjust were this not to be recognised in the conclusions. My Delegations remain flexible, but other Delegations should perhaps show flexibility in order to conclude our work.

CHAIR:

Thank you, Distinguished Delegate of Mexico, for that observation. I now give the floor to India.

INDIA:

Thank you, Mr. President. The Indian Delegation is in agreement with the suggestion made by the Distinguished Delegate of Brazil. And also we support the statement just now made by the Distinguished Delegate of Mexico that the suggestion made by the Brazilian Delegate is in consonance with the paragraph 5. Where we are mentioning what kind of text-based negotiation took place, how it was suggested that it should be consolidated. In fact, the proponents did agree to consolidate these proposals. Most of the proposals out of 11 topics. So I think we should agree to that and then stop the discussion here and move forward deciding the other paragraphs. Thank you.

CHAIR:

Chair Chairman Uruguay has the floor.

URUGUAY:

Thank you, Chairman. I have some notes here and I need them because this discussion is surreal. We cannot agree with our colleague from Kenya. We worked here all week based on a text. There is indeed text. The language which is identified as coming from Uruguay, I really cannot see what we are discussing. And why has the methodology changed since December? And the EU says that we are redrafting our mandate. We approved exactly the same language in December, gentlemen. We had the same language and we approved it in December. I fail to understand why we are discussing it again. And I would like to support the proposal which shows the most flexibility, but I think this is enough.

CHAIR:

Thank you, Uruguay. Brazil, you have the floor.

BRAZIL:

Thank you, Mr. Chairman. I would like to agree with the Delegations that preceded me. We support the point we made before. Specifically I would like to perhaps refer to the words voiced by our colleague from Mexico. And let me say that perhaps our colleague from Mexico has come up with more elegant language to address the issue that mentioned in my previous intervention. I would be fine with the language she proposed. Let me also thank the Distinguished Delegate from the EU for his comments in his last intervention. And let me tell you how I see this situation right now, Mr. Chairman. I think we are almost there. I would like specifically to thank the EU when they refer to paragraph 5 and they rightly indicate that

paragraph 5 is descriptive and it mentions the text-based approach there. It is there. Now, I have to say that the mention to the fact that text-based work took place this week under paragraph 2 seems to us of the essence. And I will try to explain why. In doing so I again appeal to Delegations that are having more difficulty to accept this. The reason why I think it is necessary to have it under paragraph 2 is because of course paragraph 2 is more in the beginning of this text and it gives a general view. It is supposed to give a general view of what took place during this week. And then if I want to communicate honestly a general view of

of what took place during this week, I think we would have to make reference to the fact that different points of view remained in terms of the nature of an appropriate international legal instrument or instruments. Whether model law, et cetera, et cetera, as well as to the fact that text-based work also took place during our discussions this week. So this is a general statement that kind of summarizes what we did here and on paragraph 5, for example, we have a description of the kind of discussions we had when we discussed SCCR 26/3. As I said, I appeal to other Delegations to take this into consideration and understand why it is important to have that mentioned under paragraph 2. Thank you.

CHAIR:

Before going t farther and in listening to you carefully, consider that not only me but all of us we are listening to each other very carefully and trying to reach a consensus while others are really expecting the solution to arrive. Let me -- let's try to be correct proactive and find a solution. There is a proposal that comes from the Chair. We have heard that in the fifth paragraph there is a descriptive, a description that has been considered objective of what has happened during our discussions. It has been said that the second paragraph tries to relate to that, even though it was mentioned before in previous agreements and there is the intention to reflect somehow the objective fact that we undertook in this interventions of this Committee. Considering that, the Chair's proposal with intention to reflect all of the concerns that have been expressed, it is: To have the second paragraph, the second paragraph as it has been almost approved but the first paragraph mentioned referred to in the 2012 General Assembly mandate to the SCCR, and transfer to the second paragraph the first sentence of the fifth paragraph. The first sentence of the fifth paragraph says: The Committee continued the discussions on the pending topics in document SCCR/26/3, in order using the text-based approach. It has been said that it is objective. It has been commented that it reflects what we did. I have considered the Brazilian proposal of this important suggestion they made that was to obtain some support. But this is reflecting and using the text that comes later and that might be transferred for that. In my opinion, it doesn't affect the structure of the text because we are reflecting the discussion we had. We open the views for comments with the patience of those who have requested the floor. **(switching captioners.) (No audio)** So UK has the floor.

UNITED KINGDOM:

Thank you, Mr. Chairman. I was just trying to sort of support your motion, which was expressed previously, that we move ahead, and I also thank my Brazilian colleague for extensive comments, and we leave time for the Brazilian delegation to talk to the EU delegation to find some language. I think there is some flexibility showing up, and I think as well your proposal might go into it. Let's go to the next paragraph and leave those delegations to find some common language in order to move forward. Thank you.

CHAIR:

If UK's suggestion is welcome, we can move to the third paragraph, asking for coordination among those delegations who have expressed concerns and considering the inputs that you have received. Okay. Well, go to the third paragraph, and we ask the Secretariat read the third paragraph as it is proposed.

SECRETARIAT:

The Secretariat briefed the Committee on the ongoing work regarding the update of the study on Copyright limitations and exceptions for libraries and archives, document SCCR/17/2 by Professor Kenneth Cruz.

CHAIR:

I think that this is very objective. I am sure we won't have any comment regarding this, and we won't lose time. But Japan has the floor.

JAPAN:

Thank you very much. I am sorry for taking the floor at this late time, but in order to make the sentence more accurate, I would like to propose a slight amendment to the sentence. With the amendment, sentence goes as follows: The Secretariat informed the Committee of state of the ongoing work. The remaining part is completely the same as it is. Thank you, Mr. Chair.

CHAIR:

Since this is not a substantial modification that probably it will not raise any opposition. If not, with that modification, we can consider to approve this paragraph unless some delegation is opposed. I see none, so with that modification, the fourth paragraph is approved. The third paragraph, sorry, is approved. We go to the fourth one, and we ask Secretariat go on.

SECRETARIAT:

Paragraph 14 -- sorry -- fourth paragraph under Limitations and Exceptions, Libraries and Archives. Several delegations propose that the Secretariat organize regional workshops to

address the challenges faced by libraries in relation to the 11 issues identified in document SCCR/26/3, including the application of existing international treaties. The Secretariat was asked to examine the available resources to organize such meetings.

CHAIR:

We open the floor for comments for this. Ecuador has the floor.

ECUADOR:

Thank you, Chairman. The Distinguished Delegate of India referred to the possibility of holding these regional workshops, as I recall, and our delegation was one of those that offered its support to that suggestion. On this, we are talking about the cross-border uses made of material by libraries, I think. Now, remember, Chairman, that when we were discussing this earlier in the week, our Delegation suggested that we thought it was necessary to bear in mind what we have been doing on broadcasting. In other words, we thought it was necessary to hear the opinions of libraries as we do to the opinions of broadcasters. You, I think, said that this was an issue we would discuss later. I raise it here because I don't see any reference to this in the conclusions. We believe it is a point which should be made of this set of conclusions.

Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from Ecuador, and we include your suggestion or comment, and we hope comments for that as well in this point. Japan has the floor.

JAPAN:

Thank you, Mr. Chair. Sorry for taking the floor so many times, but unfortunately, it is my job, so please allow me to make comments on this paragraph. We think that under the name of Group B, we think that this paragraph reflects the reality in a partial manner, and at the same time, we cannot ignore the fact that some delegates clearly expressed their reservation on the proposal to hold workshops. So in this end, we recognize that there were two different levels of reservation on the proposal. So that fact should be reflected in a proper manner. And for that purpose, I would like to propose the following additional sentences at the end of the paragraph. That additional sentence would go as follows: As delegations suggested, workshops should be held after the agreement on principles and objectives in order to provide technical assistance and as the delegations expressed the reservation on holding workshops. So that is a fact that there were two kinds of reservations at the floor in the occasion of this discussion. That is the objective reflection of the facts. Thank you very much.

CHAIR:

Would you please repeat those two additions you suggest?

JAPAN:

Thank you very much. I will now repeat in dictation speed. Other delegations expressed workshops should be held after the agreement on principles and objectives in order to provide technical assistance and other delegations expressed the reservation on holding workshops. I thank you, Mr. Chair.

CHAIR:

Open the floor for that suggestion. Kenya has the floor.

KENYA:

Thank you, Chair. Just to start by supporting what my colleague from Ecuador expressed regarding the proper reflection of what was said, and then secondly to just refer to what the Distinguished Delegate from Japan on behalf of Group B has suggested. I think if I recall correctly, what happened is that there was a proposal to hold regional workshops, and some delegations asked for clarifications. And having asked for the clarifications, the Secretariat was asked to respond to provide those clarifications. What I think I remember the Secretariat stated was they could not provide the proper information or full information regarding that possibility and they had to do further reflection and consult before they could come back to us with an answer. And on that basis, then, there was no decision which was made regarding to those delegations which had sought for clarification as to whether it was a reservation or not because I believe a reservation results on the basis of the information requested will result from a proper reflection or a proper consideration of that clarification. Now that we don't have all that clarification also provided in full, I do not see how we would reach that conclusion.

CHAIR:

Sorry. You can continue.

KENYA:

Those are requests to provide clarification from a number of delegations. And the secretary responded by saying that they could -- the Secretariat responded by saying they could not provide full information regarding what was being requested. And on that basis, then, I do not see how we reached that conclusion that there was some kind of reservation. If you are trying to reflect what was factual on the basis of impartial information because you cannot reach a conclusion based on information which is yet to be provided. So I believe once the Secretariat in the next session or whatever time will provide that information, then the delegations which had sought that information would be able to make a decision at that time

as to whether they are supportive or not. Therefore, that would be a more factual way of capturing what -- the discussions which took place. Therefore, I do not see how the current suggestions captures that kind of discussion which took place. Thank you, Chair.

CHAIR:

Thank you very much for your clarification. I think that gives us important consideration to be taken in account when we discuss this proposal, this new proposal submitted by the Distinguished Delegate from Japan. It would be interesting to hear comments regarding the information and the clarification made by the Distinguished Delegate from Kenya. Brazil has the floor.

BRAZIL:

Thank you, Chair, for giving me the floor. I'd like to thank the Delegation of Japan for the comments to paragraph 4. We'd just like to seek some clarification regarding the ideas and the suggestions they bring to discussion. First, I would like to have some clarification regarding the mentioning that some delegations suggested that we should have agreement on principles before having a decision on this. According to my notes, we only had one delegation on this regard that was mentioned something related, and we will have -- the wording westbound more like preferred to have an agreement. And I would like also to request to the Delegation of Japan to repeat the full text, since it's a very complex text. There's also some new ideas I couldn't grasp the idea of their summation to technical assistance that was not discussed, and I would like to have the full text that was proposed. Thank you.

CHAIR:

Thank you very much for your questions, and comments will be welcome. USA has the floor.

UNITED STATES:

Thank you, Chair. I'm happy to wait on my intervention. I was actually going to react to Ecuador's proposal, but if we need to clear this up first, I can wait.

CHAIR:

You mean in clearing up (**some text missing**)

UNITED STATES:

I am talking about paragraph 4. What I am saying is I can wait until that issue is cleared up until I react to Ecuador's proposal.

CHAIR:

Okay. UK has the floor. Or sorry, EU is ready? Okay.

EUROPEAN UNION:

Thank you, Mr. Chair.

On paragraph 4, any response to the intervention made by Kenya, I recall that European Union has made a reservation, a general one, and not even a conditional one. We just had a reservation. I would ask the Secretariat whether this has been duly noted, but I recall at least that we have made a general reservation as to the holding of the regional seminars. And normally this should be duly reflected in the conclusions, and these are the factual representations.

Thank you.

CHAIR:

UK has the floor.

UNITED KINGDOM:

Thank you, Mr. Chairman. Again, I would like to remind all of the colleagues that we need to keep focus to make only factual changes. That's what we are doing. We really need to keep focus on that. What is currently reflected in paragraph 4 is not entirely correct. It should be added that some delegations did not support this proposal. And the reason is very clear, and I am sure everybody would agree with us, that we just learned about this proposal on these regional workshops during the discussions I think yesterday, and it was quite obvious that many delegations would have to see -- would have to think about it further and see some clarifications around it. So I think the only -- the factual sort of representation of what happened is that there were delegations that were not comfortable with this or, actually, did not support this proposal. So there is a need to add one sentence at least to clarify that issue, and it's a factual change.

Thank you very much.

CHAIR:

Thank you for that comment. So we take note of that. Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman, and sorry to take the floor again so soon on this issue, but it's just to react to the interventions just made by the EU and the UK, and I tend to agree with them. Particularly, I think that our colleague from the UK has put it rightly, and I recollect that delegations have expressed that they are not in a position to decide or to -- not even to exactly express their views on this occasion on this. And I think that the Distinguished Delegate from the United Kingdom put it rightly when he said right now that people need more time to discuss that. That should be reflected as appropriate in the -- in our conclusions. I fully agree with that.

Thank you.

CHAIR:

It's time to listen to Kenya, but at this time, we are hearing that we are reaching a consensus that different views were expressed regarding this. There was no agreement. That was the intention after stating several delegations proposed. But if some delegations want to clarify their position regarding that and considering the last intervention from UK, I think that we can work under that basis. Kenya has the floor.

KENYA:

Thank you, Chair. I would like to thank the Delegate from the UK for his intervention. However, I'd like to echo what was said by the colleague from Brazil, that this issue was still open. I don't think it was closed. And being an open issue, pending some kind of reflection, given that it was a proposal which had just been made on the floor, pending clarifications from the Secretariat, I would be hesitant to use the word "did not support" because that would mean that there has been a careful consideration of all those factors and, therefore, someone has come to a conclusion that this proposal does not have merit. But when somebody asks for time for clarification, that does not amount to lack of support because lack of support means, then, he has had careful consideration of all the facts on the table and has come to a conclusion that he is not in favor. Therefore, the issue is closed.-of-in that regard. But when somebody says I want to have more time, it's this thing is new, I want to have clarification from the Secretariat what the budget or the implications would be, what would be the discussion, that doesn't amount to lack of support. It means that after the person has a full picture, he may consider positively or negatively. So that's the point I would like to make. Thank you, Chair.

CHAIR:

Thank you. You have been very clear regarding that position, the Distinguished Delegate from Kenya. But before moving -- going in circles regarding this issue, let me tell you something. At this point, we have to be objective and considering the facts, and what is clear is that there's no consensus regarding the organization for these regional workshops, but some delegations have expressed their view in favor of that. Some of them with some conditions, and some of them are even -- even without the financial information that has been requested, they are not in favor of this idea. So I think that this objectively might be reflected, so we thank very much Brazil's suggestion to reflect that. And while we think the best way to reflect that, we go back to the previous second paragraph, which was under discussion. There were some ideas that came from the floor and came from this part of the table. And now we can expose to you the result of our new suggestion regarding paragraph 2. Michelle, please, would you read us our proposal.

INTERPRETER:

Could you use your microphone, please. Thank you.

SECRETARIAT:

Different points of view remained in terms of the nature of an appropriate international legal instrument or instruments, whether model law, joint recommendation, treaty, and/or other forms referred to in the 2012 General Assembly mandate to the SCCR. Some delegations expressed their support for a binding instrument or instruments. Other delegations did not support a binding instrument or instruments. The Committee continued the discussions on the pending topics in document SCCR/26/3 in order using a text-based approach. So that's the end of paragraph 2 proposal. Then in paragraph 5, there would be a modification where the first sentence would be deleted, and in the second sentence, it would read: During the discussions on document SCCR/26/3, there was a rich exchange, and then it would continue from there.

CHAIR:

Thank you very much to the Secretariat for reading as the proposal that is submitted to you for your approval regarding the second paragraph, and hopefully you will consider that such a solution -- such proposal will be a solution for the different concerns that were expressed for this second paragraph. We open the floor for considering comments on this second paragraph.

Can we consider that approved? Thank you very much. So we have the second paragraph approved. We go back to the fourth paragraph. Chile has the floor.

CHILE:

Thank you very much, Chairman. In order to try and find a solution to this, and given that we are one of the delegations who expressed interest in this proposal, and also bearing in mind that there were signs of concern or discomfort perhaps is a better word, we wonder whether we might now proceed as follows. We could reflect the fact that the discussions were preliminary, exploratory, not detailed, and that after an initial exchange, there were some delegations who were not in agreement. If we put it that way, I think we could take onboard what has been said by the Kenyan delegation. It was really an exploratory discussion. But it would take into account the need to factually reflect what happened, which was that some supported it and some felt that it was not an appropriate time for such a proposal. Thank you.

SECRETARIAT:

Sorry, Chile. Can you just repeat because here on the podium I could not hear you.

CHILE:

Sorry. It was just a proposal to try and make sure we express the views which had been put forth so far. We could include a phrase saying something along the lines of: The discussions on this issue were exploratory or the discussions on this issue were not detailed. We could say there were some delegations which expressed concerns or discomfort or who were not in

agreement in the course of that exploratory and not detailed discussion. That, I think, might pick up the concern expressed by the Kenyan delegation. It's just an idea. Thank you.

CHAIR:

I'd like to thank the Chilean delegation. Does anyone have a reaction to that? Could this be a way out? **(Pause in speaking)** Yeah, we are preparing, drafting based on the different comments, but I recognize the delegation of United Kingdom.

UNITED KINGDOM:

Thank you, madam Vice Chair. Welcome to the hot spot. Thank you to my colleague from Chile for finding common ground. I do believe we could use the words that there were some preliminary discussions and some delegations showed interest and others were not in a position to support a proposal. But in that case, we would also need to delete the last sentence in para 4 because we have not agreed on anything. We are still where we were. Some said yes, some others said no, and we couldn't take it further. Thank you.

VICE CHAIR:

Thank you, United Kingdom. Brazil.

BRAZIL:

Thank you, Madam Chair. I would just, again, like to support what the Distinguished Delegate from the UK just said. Again, I'd like to point out to the fact that the Distinguished Delegate from the UK, from my perspective, has well captured what the discussions were and how we should best reflect them. Now, unfortunately, I have to disagree with the Distinguished Delegate from the UK when he says that we should delete the last sentence because, as I recollect, actually, the last sentence in this paragraph accurately reflects what has been requested, asked by one delegation, and that is, according to my recollection -- I stand to be corrected, of course -- but it was the Delegation of the United States of America that raised this issue, that they would be interested to examine the available resources to organize such meetings. So much so that, according to my recollection, a member of the Secretariat that is sitting just right to your left, Madam Chair, did provide a preliminary response to the Delegate of the United States on that question. And I think that in this regard, that last sentence well captures this event that took place during our discussions. And my Delegation was comforted with the intervention made by the United States on this particular issue because, of course, my Delegation, that is in favor of the workshop, is actually interested in learning about the available resources to organize such meetings. Thank you very much.

VICE CHAIR:

Thank you, Brazil. The Secretariat was just to clarify your point, since he was mentioned in that intervention.

SECRETARIAT:

Just to clarify,

VICE CHAIR:

While waiting, a little consultation is happening, I will pass the floor to Mexico. Mexico, you have the floor.

MEXICO:

Thank you, Madam. Very nice to see you in the Chair. I agree with the Delegate of Brazil. We did, indeed, ask the Secretariat clarify as to the costs involved with organizing such workshops. And the Secretariat did tell us that they would have to check how flexible their working program was in order to see whether they could organize such workers. Partially responding on the, a more general phrase which does not prejudge the final response, which will come from the Secretariat, not only from the point of view of resources, but timing, scheduling, so on. Thank you.

VICE CHAIR:

Thank you. Just a general remark from here. I really have the impression now we are writing the minutes of the meeting. So perhaps we should kind of try to avoid to be over-precise on every detail. The question here is should we have a reference or not, I think, and more than this, it will make every time, I think, more complicated to move on because I am not sure it was the most important almost also concerning this issue and concerning the full conclusion. But I recognize the Delegation of United Kingdom.

UNITED KINGDOM:

Thank you, Madam vice chair. I fully share your view, and we are going to extremes, but if I'll have the attention of my Brazilian colleagues, I will also have to wait. Thank you for discussing with the Chair. As I said, I do share your view we are exaggerating, and I advise all colleagues to refrain from that. I thank you for refreshing our memory, but in that case, we are doing factual sort of reflection, we should then say no further action was agreed. That was the request that was made from the floor, but then we have to make it clear that that was where the discussion stopped. There was no agreement on any further actions. But there was, I think, the discussion about resources, and I stand as well to be corrected by those who made that request, but I think that that does reflect what happened, and then we would just like to add that small sentence. Thank you.

CHAIR:

EU has the floor

UNITED KINGDOM:

Thank you, Mr. Chair. I think my comment will not be controversial. I was just informed in paragraph 4 -- and this is also the case for paragraph 7 -- one is only referring to libraries as this could also be referring to archives. But of course, there we should also ask the proponents of organizing of regional workshops, but I could imagine that they wanted to include archives as well.

CHAIR:

Thank you for that. I am sure that that was part of the proposal made in order not to exclude archives, so we can -- if there's no opposition to add that. USA has the floor, and then Brazil.

UNITED STATES:

Thank you, Chair. I will be as brief as possible. Just in response to Brazil's last intervention, which was, I think, clarified by the UK, yes, we did ask the Secretariat regarding the feasibility, but it was just a general question. We weren't necessarily agreeing with India's proposal for these workshops. In fact, we came back later and said that, you know, these workshops may be beneficial. I mean, we would need to consider it further, if once we agreed on principles and objectives, that the workshops could be used to kind of advance that's principles and objectives in developing national law. That was what was read by our group coordinator earlier in amending paragraph 4. Thank you.

CHAIR:

Thank you. Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. First of all, I would like to thank the EU Delegation for pointing out to that issue that archives should be mentioned. We fully agree. Thank you very much for that. Then, Mr. Chairman, yes, I'd like also to indicate that I fully and entirely agree with what has been said by the Delegations of the UK and the U.S. just right now. According to my own recollection, what the Distinguished Delegate from the U.S. just said is absolutely true. And what has again been suggested by our colleague from the UK, again, seems to me to be very balanced, very to the point, very factual. So I would suggest that we again follow the advice of the pretty much inspired Distinguished Delegate from the UK. Thank you.

CHAIR:

Thank you very much for that suggestion. I think that I invite kindly the Distinguished Delegate from the UK to follow that direction if possible because probably we can find a solution.

And we have received some other suggestion that Secretariat will read, and it corresponds to Chile, a compromise proposal. So we will ask Secretariat read it out loud.

SECRETARIAT:

So this is for paragraph 4, and it would be to add a sentence after the first sentence saying, "During the preliminary discussions, some delegations expressed interest, while others were not in a position to support the proposal." This was try to go capture the various ideas expressed by Chile in the Chilean proposal. So during the preliminary discussions, some delegations expressed interest while others were not in a position to support the proposal

CHAIR:

Thank you to Chile for that proposal. Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman, and I apologize for taking the floor again on this issue. Just to thank the delegation of Chile for their proposal on how to address this issue and, at the same time, to indicate that though I see value in the proposal of Chile, I do think the approach as proposed by the Distinguished Delegate from the UK better captures the kind of debate we had on this issue during this week. Thank you.

CHAIR:

Thank you very much for that. UK has the floor.

UNITED KINGDOM:

Thank you, Mr. Chairman. Just to reply to my colleague, I am always inspired, but sometimes in this house, that disappears. Yeah, I think what we were sort of reaching to a consensus was that we included the first part as proposed by Chile, and then we also include the latter part as was now outlined that already exists in the document, but just adding this last sentence, but no further action was agreed. I think that would be some kind of factual reflection of what was said, and it sort of builds on Chilean proposal and also on what we said before, and that actually is sort of a factual, and then we can finally move on with this issue. Thank you.

CHAIR:

Well, thank you very much to the Distinguished Delegate from UK for that inspiring proposal and collecting the Chilean proposal as well, so we open the floor for that, and I am not sure if all the delegations captured what you already proposed. Would you mind to repeat that, or has it been clear? Would you mind to repeat that, please?

UNITED KINGDOM:

Thank you. I think it's the part as Michelle just read it a moment ago, and the last sentence. We do agree this question was asked. Though then we can ask ourselves why do we need to include this question, in these five days there were many questions raised, and we are really being too PreVIPtive, But if we then have this question at the end, the Secretariat was asked to examine the available resources to organize such meetings but no further action was agreed, I think that was just to -- was an addition to what Michelle already read out.

CHAIR:

Okay. So we open the floor for this extensive compromise solution. Kenya has the floor.

KENYA:

Thank you, Chairman. Thank the Delegates of Chile and UK for their proposals. But I think maybe it's the time of the day. I have a bit of challenges inform the sense that when we say no further action was required, does it mean that the issue is concluded, or what does it mean? What was agreed? I am not too clear when we say -- because we are coming from -- there was some preliminary discussion. Some delegates expressed support, others did not support it, and no further action was agreed. So does that mean that the proposal was closed, or what does it mean? Because to my understanding is that this issue, while there could be reservations or concerns or whatever you want to call them, it was not concluded. It was not finalized. So when it says no further action was agreed, what does it mean? Does it mean that nothing should be done again on that proposal, or what does it mean? I am not too sure really. I am trying to understand. I mean -- and maybe I am just tired. But just seeking to understand what is the impact of what is the gist of that proposal or that addition.

CHAIR:

Sorry. As I understand that proposed addition, it doesn't disclose any further action that might be taken by this Committee, but of course, that's my opinion. India has the floor in the meanwhile.

INDIA:

Thank you, Mr. President. India is flexible with the final formulation except the last sen. We can say the matter is under consideration. Simple. The matter is under consideration means we neither reject nor approve. It's in limbo. Thank you.

CHAIR:

Thank you for that suggestion. The floor.

UNITED KINGDOM:

Thank you, Mr. Chairman. I will explain to my colleague from Kenya. This is a factual report. I said that probably ten times already today. There was no agreement on any further action. That's the fact. I don't think anybody can say that that's not the fact. That was where we stopped. There was no agreement as to what's going to happen next. Any delegation in this house is free and has all the rights to submit any kind of proposals at any next session in any kind of form they feel -- they deem necessary or it's needed. So I am just stating the facts. The fact is that there was no agreement what next. Therefore, that should be in the report. We are really already spending too much time on this item. Thank you.

CHAIR:

Thank you. I agree, we are close to a solution, but in that sense, I would invite you to find probably a way to express that. Of course, no agreement has been made, and that's what I've heard, but at the same time, there's no decision not to take this suggestion. So in consequence, for me, we should find a way to express that properly. So to ease the way to understand this paragraph, may we read it as it is until now, please, Michelle.

SECRETARIAT:

Okay. Several delegations proposed that the Secretariat organize regional workshops to address the challenges faced by libraries and archives in relation to the 11 issues identified in document SCCR/26/3, including the application of existing international treaties. During the preliminary discussions, some delegations expressed interest, while others were not in a position to support the proposal. The Secretariat was asked about the available resources to organize such meetings, but no further action was agreed. One delegation asked for a presentation during the SCCR by technical experts on the complex issues faced by libraries.

CHAIR:

As you see, we have collected the Iranian suggestion to include Ecuador's proposal. Of course, taking Ecuador's request on account, and thank you for that. We have tried to use the smart Chilean suggestion of the different views that are on this matter. And as a whole, the saying that no further action was agreed is -- might be considered probably objective because

at this point, no agreement has been reached on that matter. So we have worked a lot during a lot of time about this paragraph, and you didn't realize that at this point, probably, we have very manageable and understandable paragraph. So if you agree with me, we can approve this product as it has been read now by the Secretariat. USA has the floor.

UNITED STATES:

I am sorry, Chair, to come in right now, but I wanted to make a point about Ecuador's proposal earlier. I think that's what Michelle just read out as the last sentence. While we are in support of gathering more information and learning more about these complex issues, we are just a little concerned or we have questions about the balance, you know, will publishers also be given a right to participate in these presentations, and also just the timing of it. How much time will be allocated for a presentation for libraries? So again, we just would like some of these questions answered. Thank you.

CHAIR:

Well, the thing is since we are trying to reflect the conclusions we made, that there was just the suggestion at that point. If we open this discussion, that will be substantial, and we will go back to the Plenary. So at this point, the fact is that one delegate asked for that, and that's what we want to reflect. However, I see the important things you are mentioning. Of course, that's a concern not only for your delegation but for the rest and for the Secretariat and for me. So in that sense, don't -- do not worry because they will be taken in account. But at this time, it's just a fact that someone asked for that. And we probably didn't have the time to get into it to discuss those details. So that's the proposal I make to the floor, and I just want to hear that no opposition has been made thanks to your hard work. So thank you for that. It's approved.

Paragraph number 5.

SECRETARIAT:

During the discussions on document SCCR/26/3, there was a rich exchange of information on national practices and practical experiences, including detailed information and figures. The proponents of Treaty language texts agreed to work on their texts for each of the topics discussed, taking into account other suggestions on those texts made during the 27th Session. This time, the Committee discussed topics 5, 6, 7, 8, 9, and started discussion of topic 10.

CHAIR:

So we open the floor for suggestions regarding this paragraph number 5. Kenya has the floor.

KENYA:

Thank you, Chair. And since we have made a decision to be factual, I'd like to just add something after there was a rich exchange of information, including the proposal to match the

different text actual proposals, then continue, then comma, national practices and the rest.
Just to be factual

CHAIR:

Would you please repeat your proposal, please.

KENYA:

So after "there was a rich exchange of information, including the proposal to match the different textual proposals in various topics," and then you can continue with the rest of the stuff which is there. So I am just trying to add the discussions also included that component. I don't know whether I am clear or I repeat again.

CHAIR:

Thank you very much for your proposal. Just to tell you we are discussing proposal for Article 5, and we have a second sentence there to consider -- have you considered that in your proposal?

KENYA:

I am just trying to say that yes, there was that agreement finally, but during the discussions -- because we are trying to reflect what took place, and I know during the discussions all through, there was exchange of information, national practices, experiences, and again also on the need to make the proposal. So I am just trying to reflect that kind of discussion which took place. Then finally, the proponents agreed to work on whatever. On their text. So there was, first of all, a discussion initially to match those texts and I think all through, but finally, those agreements, we work on those texts. So that is just a matter of reflection of what took place. Thank you, Chair.

CHAIR:

Japan has the floor.

JAPAN:

Thank you, Mr. Chair. In the name of Group B, we would like to propose to delete the sentence which starts with the phrase "the proponents of Treaty language text agreed," blah, blah, blah, because this is just an agreement amongst some members, so I think it is not necessary to reflect the kind of impartial agreement in some members. At the same time, the world "Treaty language" goes beyond reality to some extent, so from both perspectives, we propose to delete the sentence -- this sentence. Thank you very much.

CHAIR:

U.S. has the floor.

UNITED STATES:

Thank you, Chair. We agree with our group coordinator in deleting that sentence, starting with "the proponents of the Treaty." We'd also like to include after the reference to SCCR/26/3, a reference to the U.S. objectives and principles document SCCR/26/8. Thank you.

CHAIR:

Thank you for that. EU has the floor.

EUROPEAN UNION:

Thank you, Chairman. We would like to support the proposal that's just been made by the Distinguished Delegate of Japan on behalf of Group B.

CHAIR:

Thank you. Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. Mr. Chairman, I would like to take this opportunity to once again appeal to the delegations. We are talking about statement of facts. That is a fact. That is tremendously important for many, many delegations here. It's only a fact. Now, let me tell you this. My Delegation will never accept the deletion of that sentence. So I appeal to delegations. That's a statement of a fact. Several delegations engaged in that commitment. And it is important for those delegations that this is reflected in the conclusions so that it also contributes to the transparency of the discussions we held here. I cannot see what the problem is. The statement of this fact is in accordance with the principle that factual events that took place during our discussions should be reflected when deemed important, and several delegations -- several delegations -- consider this to be important. So I appeal to the delegations to refrain from trying to -- I don't know exactly what. I don't know what delegations think they may gain with this kind of discussion we are having, for example, right now, and to accept the fact that here we will try to reflect the facts that have taken place. In our previous discussion regarding the previous paragraph, that's precisely what we did. Precisely what we did. And I appeal to delegations to refrain from the kind of move that we are now confronted with. Thank you.

CHAIR:

Thank you to the Distinguished Delegate from Brazil. Ecuador has the floor

ECUADOR:

Thank you, Chairman. Our delegation fully endorses what has just been said by the Brazilian Delegation. We spent an entire afternoon and a good deal of the evening discussing these issues here, and we agree that the document being prepared should be reflecting the facts which occurred in the course of our discussions. That is why Ecuador also cannot allow what several delegations are proposing should be removed from this text be removed. I have to insist on this, and I can only echo in the strongest terms what has been said by the Brazilian delegation. Please, we want the facts to be reflected in this document, all of us, you as well, I think, and there was agreement among delegations that what is said in this text was what actually happened. Please, can we accept it. Thank you.

CHAIR:

Intention of the proposed text to reflect objectively what happened without trying to determine one final solution on that matter. Islamic Republic of Iran has the floor.

IRAN:

Thank you, Mr. Chairman. My delegation could not go along with the proposal that the deletion of the proponents of the Treaty. As the Disting wished Delegation of bra -- as the Distinguished Delegation of Brazil mentioned, the conclusion only reflected factual things. So I would like to kindly ask all delegations to show flexibility. Because right now the time, I think, is past. Thank you.

CHAIR:

Thank you very much. Kenya has the floor.

KENYA:

Thank you, Chair. So just to echo the sentiments by Brazil, Ecuador, and Iran, that what we are reflecting here is factual, and I think we spent quite a bit of time on those suggestions, and I think at every topic I did make that request, and I did receive concessions from my colleagues that we work. Initially we even propose the Secretariat was supposed to work on that proposals, matching the proposals into single text. But finally, we did agree, when there were some reservations, they couldn't do it, to work on our textual proposals. I think it's the proponents. It's not the whole house; it's the proponents. And the proponents having agreed to undertake that kind of exercise I think is a factual thing. It doesn't commit anybody. It says the proponents. And there are actually proponents who have made textual suggestions in the texts we have been working on. So I don't see any problem with reporting what is factual. Thank you, Chair.

CHAIR:

Thank you to the Distinguished Delegate from Kenya. India has the floor.

INDIA:

Thank you, Mr. President. Indian Delegation is in total agreement with the statements made by the Distinguished Delegate of Brazil, Ecuador, and Iran. We just can't twist the facts what we have discussed the last five days. We are just reflecting here. Mark Twain said get your facts first, then you can distort them as you please. So I request you, is it possible to check what happened in the last five days shortly through our StreamText? Will you allow us to do so that this can be stopped here, go back and check that, and reflect what we have to reflect in the conclusions. Thank you.

CHAIR:

Thanks very much for your suggestions, but I think that we have good memory regarding this topic. USA has the floor.

UNITED STATES:

Thank you, Chair. I think facts are very important, extremely important, especially at 9:00 at night. But I think the fact remains we all have different ideas of what type of document we're working on. Some believe we are working on a treaty. Some believe, like the U.S., that we are working on an objectives and principles document. Some believe we shouldn't be working on anything. What we need to reflect is just a general statement that we worked towards something. We don't need to call it out as a treaty. We don't need to call it out as a principles and objectives document, and just move on. We really need to simplify this. Thank you.

CHAIR:

Thank you very much to the U.S.'s suggestion. One way to move forward regarding this is the fact is the agreement to work on the text from the proponents. So probably one mention to some sort of final solution on this matter might be avoided, so please bring me some suggestions regarding this. Iran has the floor.

IRAN:

Thank you, Mr. Chairman. I am afraid to take the floor again. I have forgotten to mention that my Delegation would like to support the proposal made by Distinguished Delegation of Kenya. In fact, this proposal meets my previous request on merging proposals in a consolidated text.
Thank you.

CHAIR:

EU has the floor.

EUROPEAN UNION:

Thank you, Chairman. I can hear the strength of union on both sides of this. One of the things that worked in the past when both sides held views is to insert a balancing sentence. That should also be reflected, then, in the paragraph.

CHAIR:

Brazil has the floor.

BRAZIL:

Thank you, Mr. Chairman. I really thought that this paragraph was an easy one, a basic statement of factual discussions. Well, actually, I can see that my colleague from the U.S. is not right now in a position to listen. But I want to make this comment in the most constructive way possible, so I will make it in the form, again, of an appeal. Before I do that, let me -- let me remind all delegations that my delegation did not write the text, the language that is now in paragraph 5. This is language coming from the Chair -- from the Chair. My delegation, at least, for one, did not ask the Chair to refer to my own delegation as a proponent of a treaty language, text. I did not. So why is it that the text that is here says that the proponents of the treaty language text agree to work on their text? It is because it is well known to everybody that there are several delegations that are proposing their language as possible treaty language. And they have the right to do so. Likewise, other delegations have the right not to agree with them. And other delegations have the right to oppose a treaty because they consider that the issue -- if, in their view, is an issue to be dealt with -- can be addressed in a different manner. Now, I am sure that the U.S. delegation can appreciate the fact that when they refer -- and then they indicate that we cannot make mention to the proponents of the Treaty language, they are actually conditioning or trying to condition what I may think of this, what I may want, and what I do or other delegations do. Other Delegations have the right to be proponents of Treaty language, and that cannot be ignored. And I am afraid that cannot be deleted. Because one or some or several Delegations would prefer that Delegations that are proponents of treaty language would not be proponents of treaty language. That is asking too much. Several Delegations are opposed to other issues being considered in this Committee, and several Delegations would prefer that other Delegations were not pushing for those other objectives. But I cannot ask to delete mentions to the fact that other delegations are pushing for that objective. It is legitimate. It is a matter of legitimacy. That is just too much. So again, I make the appeal, let us all be reasonable. Let us allow the facts to be recorded, the facts. Let's record agreements and decisions when there are agreements and decisions to be recorded. If need be, let's record that we disagree on certain issues. That is the right thing to

do. And that is the way to contribute to the functioning, to the proper functioning, of this Committee. Thank you very much.

CHAIR:

Thank you to the Distinguished Delegate from Brazil for his clear statement. Let me suggest something. We have heard carefully concerns from different Delegates regarding the sort of instrument that we are talking about. And it has been said repeatedly that that definition is not a matter of discussion on this Committee now. We are not in that time. That time has not arrived. And it has been said that facts should be reflected. So considering those ideas, I just suggest, since this paragraph came from the Chair, I just suggest for this sentence the following amendment, if it works: The proponents of text agreed to work on their proposals for each of the topics discussed, taking into account -- remaining the second part of the sentence. The proponents, so we remove treaty language, and we say the proponents of text agreed to work on their proposals. We are reducing the use of the term "texts," which will be enough using it once. And we are not for closing the kind of effect this kind of proposal will have in the future when we discuss the nature of the instrument. So I read it again: The proponents of text agreed to work on their their proposals for each of the topics discussed.

I beg you to consider this as a way to sort out this impasse. India has the floor.

INDIA:

Thank you, Mr. President. There are texts available in the draft proposal. The first text proposal from the African Group, next from the GRULAC, led by Brazil, Ecuador, and Uruguay; and then the third category of text is from the sole proposal from India. I agree with you -- and then when it was suggested and then suggestions came out that why can't most suggestions came from the Indian delegate saying since the proposals are -- difference is not much, why can't we merge and consolidate them? Then suggestion went to the Secretariat consolidate the text, and then based on these several delegations said no, the Secretariat cannot do this; only the proponent has to consider that and consolidate the text. If these are the facts happened last couple of days. Coming to your proposal, Mr. President, your proposal is perfect. Look at the text. Here we are saying simply proposed text. We are not saying the treaty language text. We are not saying the legal text. So I think simply using the proposed text is -- satisfies Group B. So we are taking the same expression given in SCCR/26/3, so I think that will work out in a better way. I think your proposal is a good compromise formula. I hope it is going to succeed. Thank you.

CHAIR:

Thank you very much to the Distinguished Delegate from India for looking for a solution. European Union has the floor.

EUROPEAN UNION:

Thank you, Chairman. I'd just like to comment in support of the statement that's just been made by the Distinguished Delegate of India in support of your proposal. I think it strikes the right balance and answers many of the concerns that have been heard in this room. So I'd like to thank you.

CHAIR:

USA has the floor. Thank you very much for your flexibility, European Union. USA has the floor.

UNITED STATES:

Thank you, Chair. Just point of clarification on your solution. It's texts, as in plural? We are very happy with that if that's the case because it includes our proposal on objectives and principles, and I think it's more inclusive, and that should give Brazil a little bit more comfort that we are actually working on the texts. Thanks.

CHAIR:

Thank you very much for your answer. It is in plural, yes, you are right, and thank you for adding some cops quenss of the use of that term. Kenya has the floor.

KENYA:

Thank you, Chair. I think we could agree to that proposal on the condition that what I mentioned earlier is also reflected, that there was the initial suggestion, and then finally the proponents agreed to work on the texts. Thank you, Chair.

CHAIR:

Ecuador has the floor.

ECUADOR:

Thank you, Mr. Chairman. On the very last intervention that the Delegate of the United States made, if I remember the facts, the facts we're discussing, then the sponsors of the proposal were the four countries, Brazil, Uruguay, Ecuador, and the African Group and India. Those were the sponsors. So I don't know what the Delegate is referring to, saying are we going to have texts in plural. What does he mean by that? Because this part of the text refers specifically to the proponents, and those are the countries -- represented by the countries I just referred to.

CHAIR:

Ecuador, let me ask you kindly something. If Delegates want to work together, we are not going to close that possibility. In the discussions, it was said that proponents of texts were considering to work together. You are right. But they were open to receive additional comments, and that was said regarding those proposals. So if you -- if the texts reflect and might reach a compromise solution on that, I would invite you to avoid the question you have just made because no one will be obliged to do what that delegation does not want to do. So considering that, I invite you to just consider this as a compromise solution. USA has the floor.

UNITED STATES:

I'll maybe weighed for Ecuador to respond to that. Otherwise, I'll respond to their question.

ECUADOR:

Mr. Chairman, I think what occurred during the discussion was very clear, but we are demonstrating flexibility, so we would accept your proposal, sir, to be able to continue with the work of this Committee.

CHAIR:

Thank you very much, Distinguished Delegate from Ecuador. So there's an additional request from Kenya to add a phrase in the middle of that paragraph, as you have said. So you say that practical experiences including -- sorry. During those discussions, there was a rich exchange of information, including -- please, Secretariat, would you help us?

SECRETARIAT:

Chair, what I have here, which may not be exactly correct, but I'll see if Kenya agrees, is: During the discussions on document SCCR/26/3, there was a rich exchange of information on national practices and practical experiences, including detailed information and figures, as well as proposals to merge the different texts on various topics. Then it goes on.

CHAIR:

After that, it will go as suggested before, the proponents of texts agree to work on their proposals for each of the topics discussed and taking into account other suggestions on those texts made during the 27th Session. At this time, the Committee discussed topics 5, 6, 7, 8, 9, and started discussion on topic 10. This is what the Chair suggests to do. Is there opposition to that suggestion, including those additions and modifications? I see none. Can we consider that approved? Yes. Thank you very much. We move to paragraph 6.

SECRETARIAT:

So paragraph 6. As to topic 5 on parallel importations, delegations recognized that it was a cross-cutting, sensitive issue. Some delegations emphasized that the choice for international, regional, or national exhaustion was left to national law by international copyright treaties. A number of aspects of the topic were explored by delegations and observers.

CHAIR:

Thank you very much. Comments from that paragraph? Japan has the floor.

JAPAN:

Thank you very much. Just a small amendment. I know that to avoid a misunderstanding, in the first line and before the word "delegation," we would like to propose to add "some." So "some delegations" Thank you very much.

CHAIR:

Okay. Group B is asking to add "some" delegations recognize that it was a cross-cutting sensitive issue. Is there any opposition regarding that addition? No. So I see no. May we consider this paragraph 6 as approved? I see no opposition, so it's approved. We go to paragraph 7.

SECRETARIAT:

Paragraph 7, as to topic 6 on cross-border uses, a number of delegations expressed different views on the need to allow libraries and archives to import works and to exchange them across borders as part of their public service -- it should be mission -- particularly for education and research. A number of aspects of the topic were explored by delegations and observers.

As to topic 6 on cross-border uses, a number of delegations expressed different views on the need to allow libraries and archives to import works and to exchange them

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