

WORLD INTELLECTUAL PROPERTY ORGANISATION (WIPO)

Standing Committee on Copyright and Related Rights (SCCR)

**25th meeting, November 2012
Geneva, Switzerland**

Report for the International Council on Archives

1 I attended the 25th meeting of the SCCR (SCCR 25) as representative of the ICA between 19 and 22 November; I had to leave before the final day since there were no flights to my airport on a Saturday. The following is my report on the meeting, as it related to the interests of the ICA.

Background

2 The SCCR is WIPO's forum for consideration by its member states of proposals for the reform of international law relating to copyright and related rights. Some of its work is conducted through plenary debate and the remainder in informal meetings. Member states have formed groups, such as the African Group, Latin American Group and Group B (developed nations) which seek to coordinate the approaches of their members. Meetings are also attended by representatives of Non Governmental Organisations (NGOs), including the ICA, who are sometimes invited to address the committee and can also approach member state delegations privately.

3 For some years, the SCCR has been considering the drafts of treaties (or some other form of international instrument) on limitations and exceptions to copyright. Attention has mainly concentrated so far on a treaty in favour of visually impaired persons (VIPs) and those with print disabilities. An inter-sessional meeting to consider this was held during the early autumn and much of the time at this meeting was also devoted to it.

4 Two other topics for debate on limitations and exceptions have been identified. The first is for a treaty in favour of libraries and archives, the second for a treaty in favour of educational and research establishments and of people with other disabilities.

5 At SCCR 24, a timetable was agreed for progress on these three instruments:

- i) VIPs: to make a recommendation to the WIPO General Assembly following SCCR 25 that it call a diplomatic conference in 2013 to consider concluding a treaty;
- ii) libraries and archives: to make a similar recommendation to the General Assembly following SCCR 28 (in summer 2014);
- iii) education etc: to make a similar recommendation following SCCR 30 (in summer 2015).

6 In addition to these instruments on limitations and exceptions, the Committee is also considering a treaty to protect broadcasts.

Visually impaired persons

7 Before the Committee began its debates, the WIPO secretary general addressed the meeting to urge member states to make substantial progress on the VIP treaty. He asked them to rise

above their national interests for the common good in favour of the huge number of visually impaired people worldwide, but especially in developing countries, who are denied access to reading material because it is not available in a form that is accessible to them. He stressed that agreement would be an important step not only for VIPs but also for intellectual property, for WIPO and for the international community as a whole.

8 Three of the five days of the meeting were devoted to VIPs, and most of them were spent with the chair in private session with the representatives of the groupings of member states. Reports were presented on progress in plenary each morning. Limited information was available to NGOs outside these plenary sessions, but access was still possible to delegates of member states who were not present at the private debates.

9 There was a clear split between the member state groups about the desirability of a treaty and about the details of the draft. Opposition came largely from the EU (speaking on behalf of its member states, though it has no vote itself), and to a lesser extent from the USA. The greatest support came from Africa (which has the highest proportion of visually impaired persons in its population) and South America.

10 The draft document adopted at this meeting (SCCR/25/2) is available on the SCCR website at:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=222548

Libraries and archives

11 A single afternoon was devoted to libraries and archives, but the chair gave NGOs an opportunity to address the Committee. The statement by the ICA is attached in the annex to this report. It will be published, eventually, in the report of the meeting prepared by WIPO.

12 Debate by member states revealed divisions largely along the same lines as those affecting debates on the VIPs treaty. The EU (supported by Group B, the developed countries) accepted the value of limitations and exceptions and the important role of libraries and archives in disseminating information but suggested that a treaty was unnecessary because much was already possible under the existing international copyright framework. The African Group, the Development Agenda Group (led by Brazil) and the Asian Group were more keen to see progress. The USA was less negative than other developed countries, but saw no need to rush, especially as it was not certain that the SCCR would not still be considering the VIP treaty at its next session.

13 The document considered at this meeting was the one adopted at SCCR 23 (SCCR/23/8). The text is at:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=213385

Education

14 No progress was made on the educational treaty. The EU again said that a treaty was unnecessary. Many member states felt that it was impossible to adopt the initial draft text as a formal document, though the provisional text would still be available for discussion at the next meeting.

15 The current document (SCCR/24/8/PROV) was given a provisional number at SCCR 24. It is available at:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=213462

Conclusion

16 The conclusions of the meeting are available at:

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=222322

17 The revised text on VIPs was adopted and the Committee agreed to make a recommendation to an extraordinary meeting of the WIPO General Assembly to be held in December 2012 that it call a diplomatic conference in 2013 to adopt a legal instrument or treaty. The Committee also recommended that if the General Assembly decided not to call a conference it instruct the Committee to continue negotiations and to allocate time for that purpose.

18 The Committee noted that some member states had asked for the document on libraries and archives be restructured so as to separate the draft treaty text from commentary and notes. It agreed to continue work on the text at SCCR 26 (July 2013) and to call a three-day inter-sessional meeting of the committee between SCCR 26 and SCCR 27 (November 2013), with the aim of making a recommendation to the General Assembly on schedule at the end of SCCR 28. The inter-sessional meeting will be devoted solely to consideration of the library and archives treaty and will probably be in October 2013.

19 The Committee reaffirmed its timetable for the education treaty.

20 SCCR 26 will be in July 2013. There will be two days on broadcasting, two days on libraries and archives and one day on education, unless the VIP treaty is referred back by the General Assembly.

Tim Padfield

4 December 2012

Annex

Text of the statement by the ICA to SCCR 25

Thank you, Madam Chairman, for giving the International Council on Archives an opportunity to address the Committee. The Council is grateful to you and to the WIPO secretariat for all your work to promote the objectives of the Committee.

The International Council on Archives heard with pleasure and gratitude the introductory remarks of the Director General about the importance of the Committee's work on an international instrument in favour of visually impaired persons and persons with print disabilities. The Council has been pleased to observe the constructive manner in which member states have been working towards a document suitable for a diplomatic conference.

The VIP treaty is the first of three to be considered by the Committee in the programme set out at the 24th meeting in July. The proposed instrument in favour of educational institutions still has a long way to go, but an instrument in favour of libraries and archives has been under consideration by the Committee for some years now, and a target has been set to achieve agreement on it by the 28th meeting in July 2014. We remain confident that member states will achieve this target.

Libraries and archives are an essential element in the life of all member states of WIPO. They record and make available to citizens the culture of their country and of other countries and peoples around the world. They are the primary source of information for the education of citizens. They assist all members of society, including the visually impaired and the disabled, to participate in the life of their country. They inform governments at all levels about the opinions and needs of the people and in return they inform those people about the activities of government and of their elected representatives. In a digital world, the international flow of information between libraries and archives and from those libraries and archives to their users, is especially dependent upon exceptions and limitations to copyright that are recognised internationally. Archives are especially dependent upon exceptions and limitations because for most material in their collections, such as unpublished letters or family films, there are no representative bodies to provide licensing and there is little prospect of new licensing models.

We look forward to seeing further progress by the Committee on an instrument for libraries and archives at this and future meetings.

Thank you Madam Chairman