
SCCR/45/10 PROV.
ORIGINAL: ENGLISH
DATE: APRIL 19, 2024

Standing Committee on Copyright and Related Rights

Forty-Fifth Session
Geneva, April 15 to 19, 2024

**DRAFT IMPLEMENTATION PLAN ON THE WORK PROGRAM ON LIMITATIONS
AND EXCEPTIONS**

prepared by the Secretariat

DRAFT IMPLEMENTATION PLAN

Background

At SCCR/44 held in November 2023, the WIPO Secretariat was mandated to prepare a draft implementation plan for the work program on limitations and exceptions adopted by the Committee (document SCCR/43/8 Rev.). The Secretariat was asked to circulate this draft among Member States for consultation before the SCCR/45 session to be held in April 2024. The draft, which contained an Annex with four comments received by March 29, 2024, was presented in document SCCR/45/6 for consideration.

Group Coordinators requested on April 17, 2024 that a new draft implementation plan be prepared for discussion by Member States in informals on April 18, 2024. This new draft (called “*Existing Document*”) encompassed document SCCR/45/6 and its Annex, as well as the input on further work provided by the African Group the same day.

It was agreed that the *Existing Document* will be titled *Draft Implementation Plan on the Work Program on Limitations and Exceptions* and will be posted as SCCR/45/10 PROV.

Draft Implementation Plan

I. Preservation matters

a) Launch of the toolkit on preservation in a hybrid format before SCCR/46 session.¹

b)² Conduct during the 2024/2025 biennium a series of activities based on the content of the toolkit to facilitate the implementation of preservation policies and practices [on a national level]³. These activities will involve policymakers, professionals and institutions and relevant stakeholders, and will be held in several regions.

II. Access matters

a) Completion of toolkit⁴ on access in relation to cultural heritage institutions (libraries, archives and museums) in 2025. [Once the toolkit is published on the SCCR website, Members States and stakeholders will have an opportunity to submit comments on it to the Secretariat.]⁵

¹ GROUP B: We suggest that the launch of the toolkit be done during an SCCR meeting to ensure wider participation of Member States and stakeholders/observers, as well as to highlight the work done on this project.

² GROUP B: We would appreciate clarification on the following:

- What is the type/nature of these activities? (e.g., presentation, panel discussion, etc.)
- Will a hybrid format be available?
- How many activities and in which regions does the Secretariat envision during 2024/2025?
- Will the Secretariat decide which regions to cover or will it be done by request from Member States in the region?
- Will all Member States be invited to participate in such activities in every region?

³ GROUP B

⁴ GROUP B: Similar to the toolkit on preservation (SCCR/43/4), we would appreciate that the Secretariat provide an opportunity for Member States and stakeholders to submit comments on this toolkit as well.

⁵ GROUP B

b) Launch of the toolkit on access in relation to cultural heritage institutions (libraries, archives and museums) in a hybrid format by the end of 2025.⁶

c) Conduct during the 2024/2025⁷ biennium a series of activities⁸ based on the content of the toolkit to facilitate the implementation of access policies and practices[including through licensing schemes.]⁹ in relation to cultural heritage institutions (libraries, archives and museums) [on a national level.]¹⁰ These activities will involve policymakers, professionals, institutions, and relevant stakeholders, and will be held in several regions.

d) Initiate the preparation of a toolkit on access in relation to educational and research institutions in 2025.

[III. Adaptation to the online environment]

Facilitate further work to promote the adaptation of limitations and exceptions to the online environment, such as by permitting teaching, learning and research through digital and online tools, due to its relationship with data mining.]¹¹

III. Other disabilities matters (other than those covered by the Marrakesh Treaty)

a) Update the Revised Scoping Study on Access to Copyright Protected Works by Persons with Disabilities (document SCCR/38/3), published in 2019, to assess assistive technologies in relation to copyright matters. This study will be presented during an SCCR session in 2025.¹² [Once the study is presented, Members States and stakeholders will have an opportunity to submit comments on it.]¹³

b) Organize [~~a hybrid presentation~~]¹⁴ [in a hybrid format]¹⁵ on the existing means to address the needs of persons with hearing and cognitive disabilities in relation to accessibility of copyright-protected content, during an SCCR session in 2025.

IV. Further work on objectives and principles on limitations and exceptions

Facilitate further work by [~~a task force comprised of~~]¹⁶ Member States on objectives and principles on limitations and exceptions [by starting at the SCCR/45 session with discussion of the Updated Version of the Document “Objectives and Principles for Exceptions and Limitations for Libraries and Archives” (document SCCR/44/5), and considering it for adoption as an SCCR

⁶ GROUP B: Same suggestion as for point I.a) above: to have a launch of the toolkit during an SCCR meeting.

⁷ GROUP B: Same comment as for point I.b) above.

⁸ GROUP B: We would appreciate clarification as to how the Secretariat plans to conduct these activities in 2024 on a toolkit that is expected to be completed in 2025 and launched by the end of 2025?

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¹² GROUP B: Similar to the recent scoping study (SCCR/44/4), we would appreciate that the Secretariat provide an opportunity for Member States and stakeholders to submit comments on this study as well.

¹³ GROUP B

¹⁴ GROUP B: We would appreciate clarification on the following:

- Who will be making such presentation?
- What is the type/nature of “the existing means” here? (E.g., legal, technological, etc.).

¹⁵ GROUP B

¹⁶ GROUP B

document.]¹⁷ The modalities and scope of the work [on item IV are]¹⁸ to be [further discussed by Member States]¹⁹ and defined during [the a SCCR/46]²⁰ session [after completion of the points 1 to 3 of the Work Program].²¹

[The Committee agreed that the Secretariat will facilitate further work by two task forces of Member States to discuss objectives, principles, and options on limitations and exceptions with the following guidelines:

a) Without prejudice to the negotiation and conclusion of a legal instrument or instrument(s) on exceptions and limitations for education and research, including digital, online, and cross-border educational and research activities, the scope of work shall include the following two issues:

1. a task force should draft objectives, principles and options for a legal instrument or instrument(s) (whether model law, joint recommendation, treaty and/or other forms) to promote the adaptation of exceptions and limitations to the online environment, such as by permitting teaching, learning and research through digital and online tools.

2. a task force should draft objectives, principles and options for a legal instrument or instrument(s) (whether model law, joint recommendation, treaty and/or other forms) to promote the adaptation of exceptions and limitations to ensure that laws at the national level enable the preservation activities of libraries, archives, and museums, including the use of preserved materials;

b) the modalities of the work of each task force shall include:

i. the Chair should, immediately after the conclusion of SCCR/45, establish a task force of Member States who volunteer to participate;

ii. the task force should consist of at least two Member States with balanced and diverse representation from each region, to be selected by Regional Coordinators, with the participation of at least one expert to support the work of each working group;

iii. the Secretariat shall summarize the various objectives and principles relevant to the priority issues that have previously been presented to the SCCR, including SCCR/26/8, SCCR/27/8, and SCCR/34/5, as appropriate, and invite proposals of additional language for the instruments before the first meeting of the task force;

iv. in line with established practice, the SCCR plenary will remain the negotiating and decision-making body. The task force of Member States and experts will support and facilitate the negotiations of the SCCR, by providing advice and analysis on the issues to be addressed.

v. The Secretariat is requested to prepare a detailed work plan for tool kits and other forms of guidance and technical assistance to the extent that it does not distract from supporting the Committee's work as described above. Work by the Secretariat may include:

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- a) Preparation and launches of toolkits on preservation and access of preserved works;
- b) Updating the Revised Scoping Study on Access to Copyright Protected Works by Persons with Disabilities (document SCCR/38/3), published in 2019, to assess assistive technologies in relation to copyright matters.]²²

V. Other considerations

[a) During SCCR/44, the African Group presented a Draft Proposal for the Implementation of the Work Program on Exceptions and Limitations (document SCCR/44/6). This proposal aimed to establish a specific process for developing an international instrument that would address exceptions and limitations to copyright laws. In accordance with the Summary of the Chair adopted at the end of the 44th session, the Secretariat shall present at the next SCCR a “detailed implementation plan” for “the Work Program on Exceptions and Limitations” taking into account “comments from member states made at this SCCR session”.

The following comments are presented as a contribution to the work of the SCCR Committee in the realm of the implementation of the work plan on exceptions and limitations.

My delegation fully supports the “Draft Proposal for the Implementation of the Work Program on Exceptions and Limitations” as contained in the document SCCR/44/6. We believe that the proposal can serve as an appropriate basis for the interest of the implementation of the Work Program on Exceptions and Limitations which was adopted by the Committee in its entirety at its 44th session. The proposal outlines three priority areas identified by the Committee. The Proposal provided a comprehensive framework for discussions on how to move forward with the work program on exceptions and limitations within the SCCR. It suggests a step-by-step approach to developing the instrument, starting with agreeing on objectives and principles before moving on to consider specific options for inclusion in the instrument. According to the Draft Proposal for the Implementation of the Work Program on Exceptions and Limitations, “the drafts of the objectives, principles and (implementation) options should be presented at SCCR/45 for consideration by the Committee”. (See document 44/6).

We believe that this comprehensive Work Program (based on the African Group) could serve as a basis for further deliberations at SCCR/45, where Member States could discuss and refine the proposed process for developing the international instrument on exceptions and limitations. Additionally, establishing a task force during SCCR/45 could help advance the work in this area between sessions, potentially leading to concrete outcomes that could be presented and discussed at SCCR/46. By building on the Proposal from SCCR/44 and engaging in substantive discussions during SCCR/45, the Committee could make significant progress towards achieving its goal of enhancing access to knowledge and promoting transparency through balanced copyright frameworks.

The L&Es serves as the only item in the draft implementation plan that necessitates thorough discussion. Given the fact that the timeline for SCCR/46 may be delayed and might not occur until the spring of 2025, or even later, my delegation suggests that the scope and modalities be deliberated upon during SCCR/45 session, with the appointment of a task force also taking place at that session. This approach would enable the task force to proceed with work on an “intersessional basis”, and the result of that work could be presented at SCCR/46. Having said above, we believe that the L&E work program implementation draft that has been prepared by

²² AFRICA GROUP

the Secretariat should be further negotiated by the Committee in the SCCR's next session (45th session.)²³

[b) We are wondering what will be the potential correlation between the proposed toolkit on preservation, specified in paragraph *I. Preservation matters*, and the Toolkit on Preservation, prepared by Rina Elster Pantalony, Kenneth D. Crews and David Sutton for the SCCR 43 (document SCCR/43/4).

Furthermore, at the SCCR 43, the Secretariat indicated that the toolkits on access for libraries, museums and archives, and on access for educational and research institutions will be prepared. Therefore, we are curious whether the completion of the toolkit on access in relation to cultural heritage institutions (libraries, archives and museums) and launch of the toolkit on access in relation to educational and research institutions, specified in paragraph *II. Access matters* of the Plan, imply the continuation of that work or something else.]²⁴

[End of document]

²³ IRAN

²⁴ RUSSIAN FEDERATION