

Copyright

Monthly Review of the United
International Bureaux for the Protection
of Intellectual Property (BIRPI)

1st year - No. 5

May 1965

Contents

	Pages
INTERNATIONAL UNION	
— Committee of Experts on the Administrative Structure of International Cooperation in the Field of Intellectual Property (Geneva, March 22 to April 2, 1965)	102
NATIONAL LEGISLATION	
— Zambia. The Copyright Act, 1965 (No. 14, of 1965)	107
GENERAL STUDIES	
— The Zambian Copyright Act (G. Straschnov)	112
CORRESPONDENCE	
— Letter from Czechoslovakia (J. Novotný)	117
INTERNATIONAL ACTIVITIES	
— Founding Congress of the International Secretariat of Entertainment Trade Unions (Brussels, March 8 to 11, 1965)	119
NEWS ITEMS	
— Denmark. Ratification of the Rome Convention for the International Protection of Performers, Producers of Phonograms and Broadcasting Organisations	119
CALENDAR	
— Meetings of BIRPI	120
— Meetings of Other International Organizations concerned with Intellectual Property	120

INTERNATIONAL UNION

Committee of Experts on the Administrative Structure of International Cooperation in the Field of Intellectual Property

(Geneva, March 22 to April 2, 1965)

NOTE ¹⁾

(1) The Committee of Experts on the Administrative Structure of International Cooperation in the Field of Intellectual Property (hereinafter referred to as "the Committee of Experts") met in Geneva from March 22 to April 2, 1965, on the invitation of the Director of BIRPI and pursuant to a joint Resolution of the Permanent Committee of the Berne Union and the Permanent Bureau of the Paris Union, adopted in 1962 (see *Le Droit d'Auteur-Copyright*, 1962, page 186).

(2) Of the Member States of the Paris and Berne Unions, 37 were represented: Australia, Austria, Belgium, Brazil, Canada, Congo (Leopoldville), Czechoslovak Socialist Republic, Denmark, Finland, France, Federal Republic of Germany, Greece, People's Republic of Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Lebanon, Luxembourg, Monaco, Morocco, Netherlands, New Zealand, Norway, Pakistan, Polish People's Republic, Rumanian People's Republic, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Socialist Federal People's Republic of Yugoslavia.

(3) The Union of Soviet Socialist Republics was represented by Observers, its adherence to the Paris Union becoming effective only on July 1, 1965.

(4) Four intergovernmental organizations, namely, the United Nations, UNESCO, the International Patent Institute, and the Organization of American States, and six non-governmental organizations: International Association for the Protection of Industrial Property (IAPIP), International Bureau for Mechanical Reproduction (BIEM), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Patent Agents (FICPI), International Literary and Artistic Association (ALAI) were also represented by Observers.

(5) The names of the participants appear at the end of the present Note.

(6) Judge Torwald Hesser (Sweden) was elected Chairman, while Messrs. H. Puget (France), S. Sumodiredjo (Indonesia), and E. Tasnády (Hungary), were elected Vice-Chairmen.

Basis of the Work of the Committee of Experts

(7) The Committee of Experts had before it the texts of a draft convention entitled "Convention of the World Intel-

lectual Property Organization" and a draft resolution which a Working Group (hereinafter referred to as "the Working Group of 1964") consisting of experts from ten States Members of the Paris or Berne Unions had drawn up in May 1964 (see *Le Droit d'Auteur-Copyright*, 1964, page 148). The Committee of Experts also had before it an Introductory Report drawn up by the Secretariat of BIRPI with the assistance of experts of the Government of Sweden, the prospective host of the Stockholm Revision Conference scheduled to take place in 1967.

(8) It will be recalled that the main objective of the draft convention prepared by the Working Group of 1964 was to provide for an administrative framework in which the basic aims of the Paris and Berne Unions could be more efficiently served.

(9) That draft provided for the establishment of a World Intellectual Property Organization to which Members of the Paris or Berne Unions and certain other States not Members of any of these Unions (hereinafter referred to as "Third States") could adhere. It also provided for a General Conference of all these States and an Executive Board emanating from the General Conference. Furthermore, it provided for a General Assembly and an Executive Committee for each of the Unions, and for a Coordination Committee. Finally, it provided for a Secretariat, regulated the finances of the Organization and the Unions, and contained other provisions usual in international treaties of its kind.

Results of the Meeting

(10) The Committee of Experts made some important changes in the drafts of the Working Group of 1964 both in respect of the structure of the proposed instruments and in respect of the proposed changes in the administrative structure of the various Unions administered by BIRPI and BIRPI's proposed successor to which the new drafts give the name "International Intellectual Property Organization" (abbreviated as "IPO").

(11) As to the structure of the instruments which would incorporate and effectuate the changes, the Committee of Experts proposes that only matters which concern directly IPO should be the subject of the proposed new Convention ("IPO Convention") whereas all matters of direct and exclusive interest to the various Unions should be the subject of Protocols. There would be single separate Protocols, for the Paris Union, for the Berne Union, and each of the Special

¹⁾ This Note was prepared by BIRPI on the basis of the official Records of the meeting (document AA/II/34).

Agreements or Restricted Unions existing under the Paris Convention. Each of these Protocols would be roughly identical and in harmony with the provisions of the IPO Convention. Accordingly, the Committee established the text of a Draft Protocol which would serve as a model for each Union.

(12) This solution was dictated not only by legal considerations but also by the desire to underline the autonomy of each Union.

(13) Each Union would have an Assembly consisting of its Member States. The Paris Union would also have an Executive Committee elected by its Assembly and consisting of one-fourth of the Member States. The Berne Union would have a corresponding but separate Executive Committee established similarly. The other Unions may have Executive Committees, if they so desire. In addition to the questions relating to the Assembly and the Executive Committee, the main questions regulated by the Protocol are the finances of each Union. Further details on the Protocol are given in paragraphs (17) to (19) below.

(14) The organs of IPO would be the following: General Assembly, Coordination Committee, Conference, and Secretariat — the last being a simple continuation of what is today BIRPI. Membership in IPO would not be limited to States Members of the Unions, but membership in the General Assembly would be limited to such States. The Conference — having mainly consultative functions only — would include all Members of IPO, that is also States not Members of any of the Unions (so-called Third States). The Coordination Committee would consist of the States Members of the Executive Committees of the Paris and Berne Unions. It is to be noted that whereas the Draft of the Working Group of 1964 provided for a General Conference including also Third States and an Executive Committee as an emanation of the General Conference, the Drafts adopted by the Committee of Experts provide for neither of these organs. Further details on the Draft IPO Convention are given in paragraphs (20) to (28), below.

(15) In addition to the Draft Protocol and the Draft IPO Convention, the Committee of Experts also adopted a Draft Resolution concerning the limited provisional application, on an interim basis, of the instruments to be adopted at Stockholm, and a list of consequential changes which would have to be made in the various existing Conventions and Agreements in respect to administrative provisions in them.

(16) Some of the Experts made certain reservations in connection with the various texts adopted by the Committee of Experts. They are reflected in the Report adopted by the Committee of Experts but not reproduced in the present Note since it was generally admitted that the Experts did not in any way express a binding or final opinion of the Governments which delegated them into the Committee of Experts.

The Draft Protocol

(17) As already indicated, each Union would have an Assembly consisting of the States Members of the Union. The Assembly would, among other things: (a) deal with all matters

concerning the maintenance and development of the Union and the implementation of its Convention (but not with the revision of the Union's Convention which would still be in the sole jurisdiction of diplomatic (negotiating) conferences convened for that specific purpose), (b) determine the program and adopt the triennial budget of the Union, (c) review the activities of, and instruct, the Secretariat, as far as matters concerning the Union are concerned.

(18) All administrative tasks would be carried out by the Secretariat of IPO.

(19) The present class-and-unit system for the contributions of Member States would be maintained; however, a seventh class (with one unit) would be added to the present six classes. The budget would be voted upon once every three years; if any new budget should carry with it an increase in the contributions of the Member States, its adoption would require a two-third majority. A working capital fund would be instituted.

The Draft IPO Convention

(20) The Preamble of the Draft Convention summarized in the following manner the *reasons* for which the Convention would be concluded: "The Contracting Parties, desiring to modernize and render more efficient the administration of the Intellectual Property Unions through the establishment of administrative organs which, although in part common, fully respect the autonomy of each of the several Unions, and to promote the protection of intellectual property throughout the world, in particular through the creation of a Conference and the offer of legal-technical assistance to developing countries, have agreed as follows . . ."

(21) Article 1 states that "the International Intellectual Property Organization is hereby established", and enumerates its *organs*: "a General Assembly of the States Members of the various Unions, a Coordination Committee, a Conference, and a Secretariat".

(22) The *objective* of IPO is "to promote cooperation among States in the field of protection" for industrial property, copyright and neighboring rights "through administrative cooperation among the various Intellectual Property Unions and through other appropriate means set on in the . . . Convention".

(23) The *tasks* entrusted to IPO would include the administrative tasks of the Paris and Berne Unions and other existing or future intellectual property Unions, the assembling of information, the maintenance of various services, the promotion of the harmonization of legislations, and the furnishing of technical-legal assistance, particularly to developing countries.

(24) The *Headquarters* of IPO would be in Geneva.

(25) The *General Assembly* would consist only of the States which are Members of a least one Union. All such States would be Members of the General Assembly. Among other things, the General Assembly would: (a) review the activities of the Coordination Committee, (b) appoint the Director-General after having heard the advice of the Conference, (c) decide — by a three-quarters majority — whether

or not to accept new intellectual property agreements for administration by IPO.

(26) The *Conference* — in which “Third States” would have the same rights as States Members of one or more Unions — would: (a) discuss matters of general interest in the field of intellectual property and adopt resolutions and recommendations relating to such matters; (b) adopt a triennial budget (consisting of contributions which the various Unions have agreed to make and the contributions of Third States providing for funds to cover the expenses of the Conference and the program of technical-legal assistance (“Conference budget”)); (c) within the limits of the Conference budget, establish the triennial program of legal-technical assistance; (d) give advice to the General Assembly as to the question of who should be elected Director-General. The General Assembly is not bound to follow this advice.

(27) The *Coordination Committee* would consist of the States Members of the Executive Committee of the Paris Union, and of the Executive Committee of the Berne Union, each of these Committees being composed of one-fourth of the Members of the Unions. Whenever the Coordination Committee considers the Conference budget, one-fourth of the Third States would participate in the Coordination Committee with the same rights as Members of that Committee. The main task of the Coordination Committee would consist of giving advice to the organs of the various Unions, the General Assembly, and the Conference, on all administrative, financial and other matters of common interest to two or more of the Unions; and in particular on the common expenses to be inscribed in the budgets of the various Unions and the Conference budget.

(28) The *Secretariat* would comprise a Director-General, two or more Deputy Directors-General, and other staff members as required.

Future Steps Contemplated

(29) The matters dealt with by the Committee of Experts are expected to be further discussed and finalized at the Stockholm Diplomatic Conference scheduled for 1967.

List of Participants

I. Member States

Australia

Mr. K. B. Petersson, Commissioner of Patents, Patent Office, Canberra.

Austria

Mr. Thomas Lorenz, Ratssekretär, Patent Office, Vienna.
Mr. Helmuth Tades, Secretary, Federal Ministry of Justice, Vienna.

Belgium

Mr. Albert Willot, Second Secretary of Legation, Permanent Delegation of Belgium in Geneva.
Mr. Gérard de San, Director-General, Legal Counsellor, Deputy Chairman of the National Copyright Commission, Brussels.

Mr. Frans Van Isacker, Professor at the Faculty of Law of Gand, Member of the National Copyright Commission, Brussels.

Mr. A. Schurmans, Director of the Industrial and Commercial Property Service, Brussels.

Mr. Paul Peetermans, Doctor at Law, Industrial and Commercial Property Service, Brussels.

Brazil

Mr. Fanor Cumplido Jr., Minister, Permanent Delegation of Brazil, Geneva.

Mr. João Cahral Melo Neto, Counsellor of Embassy, Permanent Delegation of Brazil, Geneva.

Canada

Mr. J. W. T. Michel, Commissioner of Patents, Patent Office, Ottawa.

Mr. Charles T. Stone, Counsellor, Second Secretary, Permanent Mission of Canada, Geneva.

Congo-Leopoldville (Dem. Rep.)

Mr. Albert Mongita, Director of Cultural Affairs, Ministry of National Education and Cultural Affairs, Central Government, Leopoldville.

Mr. Marcel Duhru, Dean of the Faculty of Law, University of Lovanium, Leopoldville.

Czechoslovak Socialist Republic

Mr. Jaroslav Němeček, President, Patent Office, Prague.

Mr. Radko Fajfr, First Secretary, Ministry of Foreign Affairs, Prague.

Mr. Jiří Kordač, Counsellor, Legislative Division, Ministry of Education and Culture, Prague.

Dr. Otto Kunz, Chief of Research, Czechoslovak Academy of Science, Law Institute, Prague.

Denmark

Mr. Torhen Lund, Professor at the University of Aarhus.

Finland

Mr. Berndt Godenhjelm, Professor at the Faculty of Law, University of Helsinki, Helsinki.

France

Mr. Henry Puget, Counsellor of State, Professor, Institut des Sciences Politiques, President of the Intellectual Property Commission, Paris.

Mr. Guillaume Finnis, Inspector-General of Industry and Commerce, Paris.

Mr. Roger Labry, Counsellor of Embassy, Ministry of Foreign Affairs, Paris.

Mr. Charles Rohmer, Head of the Copyright Bureau, Ministry of Cultural Affairs, Paris.

Advisers of the Delegation:

Mr. Bernard Laclavière, Civil Administrator, Ministry of Agriculture, Paris.

Mr. Marcel Pierre, Civil Administrator, Industrial Property Service, Paris.

Federal Republic of Germany

Mr. Alhrecht Krieger, Regierungsdirektor, Federal Ministry of Justice, Bonn.

- Mr. Dirk Rogge, Landgerichtsrat, Federal Ministry of Justice, Bonn.
- Mr. Klaus Pfanner, Regierungsdirektor, Patent Office, Munich.
- Mr. Hans-Ludwig Donle, Regierungsrat, Patent Office, Munich.
- Mr. Peter Schönfeld, First Secretary of Embassy, Permanent Delegation of the Federal Republic of Germany, Geneva.

Greece

- Mr. Georges Pilavachi, Jurist, Permanent Delegation of Greece, Geneva.

Hungarian People's Republic

- Mr. Emil Tasnádi, President, National Office of Inventions, Budapest.
- Mr. Jozsef Bényi, Deputy Permanent Representative, Chargé d'Affaires a. i., Permanent Mission of Hungary, Geneva.
- Mr. Gyula Jelenik, Secretary, Ministry of Foreign Affairs, Budapest.
- Mr. János Zakár, Legal Counsellor, Hungarian Copyright Office, Budapest.
- Mr. Gyula Pusztai, Head of Section, National Office for Inventions, Budapest.

India

- Mr. S. Vatsa Purushottam, Second Secretary, Permanent Mission of India, Geneva.

Indonesia

- Mr. Sugondo Sumodiredjo, Assistant Minister of Justice for Legal and Legislative Affairs, Department of Justice, Djakarta.
- Mr. Alwi Sutan Osman, Head of the Minister's Bureau, Department of Justice, Djakarta.

Iran

- Mr. Gholam-Reza Salahshoor, Director-General, Office of Registration of Acts and Property, Teheran.
- Mr. Mehdi Naraghi, Director, Industrial Property and Societies Registration Office, Teheran.

Ireland

- Mr. J. J. Lennon, Controller of Industrial and Commercial Property, Dublin.

Israel

- Mr. Ze'ev Sher, Registrar of Patents, Designs and Trademarks, Ministry of Justice, Jerusalem.

Italy

- Mr. Giuseppe Talamo Atenolfi, Ambassador of Italy, Ministry of Foreign Affairs, Rome.
- Mr. Valerio De Sanctis, Lawyer, Rome.
- Mr. Giuseppe Trotta, Legal Counsellor, Ministry of Foreign Affairs, Rome.

Ivory Coast

- Mr. Theodore De Mel, Counsellor of Embassy, Berne.

Japan

- Mr. Muneoki Date, First Secretary, Permanent Delegation of Japan, Geneva.

Lebanon

- Mr. Michel Farah, Chargé d'Affaires, Embassy of Lebanon, Berne.

Luxembourg

- Mr. Jean-Pierre Hoffmann, Head, Industrial Property Service, Ministry of National Economy and Power, Luxembourg.

Monaco

- Mr. Jean-Marie Notari, Head, Industrial Property Service, Monaco.

Morocco

- Mr. Laraqui, Ambassador of Morocco, Berne.

Netherlands

- Mr. C.J. De Haan, President, Patent Council, The Hague.
- Mr. W. M. J. C. Phaf, Director, Legal Section of the Ministry of Economic Affairs, The Hague.

New Zealand

- Miss M. C. Riches, Third Secretary, New Zealand Permanent Mission, Geneva.

Norway

- Mr. Sten H. Røer, Office Manager, Patent Office, Oslo.

Pakistan

- Mr. Sam M. Ahmed, Controller of Patents and Designs, Karachi.

Polish People's Republic

- Mr. Ian Dalewski, Head, Legal Section, Polish Patent Office, Warsaw.
- Mrs. Eleonora Ratuszniak, Chief of the Division, Ministry of Foreign Affairs, Warsaw.
- Mr. Edward Drabienko, Lawyer, Counsellor to the Minister of Arts and Culture, Warsaw.

Rumanian People's Republic

- Mr. Ion Anghel, Chief Legal Adviser, Ministry of Foreign Affairs, Bucharest.
- Mr. Lucian Marinete, Technical Director, State Office for Inventions, Bucharest.

Spain

- Mr. Electo J. Garcia Tejedor, Permanent Delegate a. i. to International Organizations, Geneva.
- Mr. Ernesto Rua, Chief of Section, Spanish Industrial Property Registry, Madrid.
- Mr. Emilio Aragon Colville, Deputy-Head of the Trademark Section, Industrial Property Registry, Madrid.

Sweden

- Mr. Torwald Hesser, Judge at the Court of Appeal, Ministry of Justice, Stockholm.
- Mr. Claës Uggla, Counsellor, Board of Appeals, Patent and Registration Office, Stockholm.
- Mr. J. L. Myrsten, Head of Section, Ministry of Foreign Affairs, Stockholm.

Switzerland

- Mr. Hans Morf, Lawyer, Former Director of the Federal Office of Intellectual Property, Berne.

Mr. Joseph Voyame, Director, Federal Office of Intellectual Property, Berne.

Mr. Rodolphe Bühler, Division of International Organizations, Federal Political Department, Berne.

United Kingdom

Mr. Gordon Grant, Comptroller-General of Patents, Designs and Trademarks, Industrial Property Department, Board of Trade, London.

Mr. William Wallace, C. M. G., Assistant Comptroller, Patent Office, Board of Trade, London.

Mr. L. J. Smith, Controller of Plant Variety Rights, London.

Mr. James D. Miller, United Kingdom Deputy Permanent Representative, Geneva.

United States of America

Mr. William M. Gibson, Minister, U. S. Mission, Geneva.

Mr. Edward Brenner, Commissioner of Patents, Washington.

Mr. Harvey J. Winter, Assistant Chief, International Business Practices Division, Department of State, Washington.

Mr. Kenneth McClure, Director, Office of Legislative Planning, U. S. Patent Office, Washington.

Miss Sylvia Nilsen, Office of the Legal Adviser, Department of State, Washington.

Yugoslavia

Mr. Vladimir Savić, Director, Patent Office, Belgrade.

Mr. Vojislav Spaić, Professor, University of Sarajevo.

II. Observers

1. States

Union of Soviet Socialist Republics

Mr. Yevgueny Artemyev, Vice-Chairman, Committee of State for Inventions and Discoveries, Moscow.

Mr. Yevgueny Pavlov, Expert, Committee of State for Inventions and Discoveries, Moscow.

Mr. Yevstigneyev, Expert, Committee of State for Inventions and Discoveries, Moscow.

Mrs. Chvetsova, Translator, Geneva.

2. Intergovernmental Organizations

United Nations

Mr. Claude Benjamin, Legal Officer, Commission Affairs and Trade Development Division, Economic Commission for Europe, Geneva.

International Patent Institute

Mr. G. Finnis, Chairman of the Administrative Council.

Mr. D. Merle, Financial Controller.

Unesco

Mr. Alfonso de Silva, Head, Division of Relations with International Organizations, Paris.

Miss Marie-Claude Dock, Copyright Section, Department of Cultural Activities, Paris.

Organization of American States (OAS)

Mr. Raul Migone, Representative, Geneva.

3. Non-Governmental Organizations

International Association for the Protection of Industrial Property (IAPIP)

Prof. P. J. Pointet, Chairman, Swiss Group of IAPIP, Zurich.

Mr. Georges Gansser, Chairman, International Coordination Commission for Intellectual Property Rights of IAPIP, Basel.

International Bureau for Mechanical Reproduction (BIEM)

Mr. Léon Malaplate, Secretary-General, CISAC, Paris.

International Chamber of Commerce (ICC)

Prof. P. J. Pointet, Vice-Chairman, Commission for the International Protection of Industrial Property of the ICC, Zurich.

International Confederation of Societies of Authors and Composers (CISAC)

Mr. Léon Malaplate, Secretary-General, Paris.

International Federation of Patent Agents (FICPI)

Mr. René Jourdain, Chairman, Work Study Commission of FICPI, Paris.

Mr. Alfred Vander Haeghe, Patent Agent, Professor at the University of Brussels.

International Literary and Artistic Association (ALAI)

Mr. Jean Vilbois, Permanent Secretary, Paris.

III. BIRPI

Prof. G. H. C. Bodenhausen, Director.

Dr. Arpad Bogsch, Deputy-Director.

Mr. Charles-L. Maguin, Deputy-Director.

Mr. Claude Masouyé, Counsellor, Head of Copyright Division.

IV. Officers of the Meeting

Chairman: Mr. Torwald Hesser (Sweden).

Vice-Chairmen: Mr. Henry Puget (France).

Mr. Sugondo Sumodiredjo (Indonesia).

Mr. Emil Tasnádi (Hungarian People's Rep.).

NATIONAL LEGISLATION

ZAMBIA

The Copyright Act, 1965

(No. 14, of 1965)¹

Arrangement of Sections

Section

1. Short title and commencement.
2. Interpretation.
3. Works eligible for copyright.
4. Copyright by virtue of nationality or residence.
5. Copyright by reference to country of origin.
6. Copyright in works of Government and international bodies.
7. Nature of copyright in literary, musical or artistic works and cinematograph films.
8. Broadcasting of works incorporated in a cinematograph film.
9. Nature of copyright in sound recording.
10. Nature of copyright in broadcasts.
11. First ownership of copyright.
12. Assignments and licences.
13. Infringements.
14. Appointment of competent authority and duties of such authority.
15. Regulations and extensions of application of Act.
16. Saving.
17. Repeal of Copyright Act (Amendment) Ordinance and the Patents, Designs, Copyright and Trademarks (Emergency) Ordinance.

An Act to provide that the Copyright Act, 1911, of the United Kingdom shall cease to have effect in Zambia, to repeal the Copyright Act (Amendment) Ordinance and the Patents, Designs, Copyright and Trademarks (Emergency) Ordinance and to make provision for copyright in literary, musical and artistic works, cinematograph films, sound recordings and broadcasts.

Enacted by the Parliament of Zambia.

Short title and commencement

1. — This Act may be cited as the Copyright Act, 1965, and shall come into operation on such date as the President may, by notice in the *Gazette*, appoint²).

Interpretation

2. — (1) In this Act, unless the context otherwise requires —

“artistic work” means, irrespective of artistic quality, any of the following, or works similar thereto:

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
- (b) maps, plans and diagrams;
- (c) works of sculpture;
- (d) photographs not comprised in a cinematograph film;
- (e) works of architecture in the form of buildings or models; and
- (f) works of artistic craftsmanship;

“author”, in the case of a cinematograph film or sound recording, means the person by whom the arrangements for the making of the film or recording were undertaken, or in the case of a broadcast transmitted from within any country, means the person by whom the arrangements for the making of the transmission from within that country were undertaken;

“broadcast” means a sound or television broadcast of any material and includes a diffusion over wires;

“broadcasting authority” means the Zambia Broadcasting Corporation and any other broadcaster whether licensed under the Zambia Broadcasting Ordinance or any other written law;

“building” includes any structure;

“cinematograph film” means the first fixation of a sequence of visual images capable of being shown as a moving picture and of being the subject of reproduction and includes the recording of a sound-track associated with the cinematograph film;

“communication to the public” includes, in addition to any live performance or delivery, any mode of visual or acoustic presentation;

“copy” means a reproduction in written form, in the form of a recording or cinematograph film, or in any other material form, so however that an object shall not be taken to be a copy of an architectural work unless the object is a building or model;

“copyright” means copyright under this Act;

“literary work” means, irrespective of literary quality, any of the following, or works similar thereto:

- (a) novels, stories and poetical works;
- (b) plays, stage directions, film scenarios and broadcasting scripts;
- (c) textbooks, treatises, histories, biographies, essays and articles;
- (d) encyclopaedias and dictionaries;
- (e) letters, reports and memoranda;
- (f) lectures, addresses and sermons;

but does not include any written law, law report or judicial decision;

“Minister” means the Minister of Commerce and Industry;

“musical work” means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment;

¹) Published in the *Gazette of the Republic of Zambia*, on February 12, 1965.

²) This Act came into force on March 1, 1965.

“prescribed” means prescribed by regulations made under section 15;

“re-broadcasting” means simultaneous or subsequent broadcasting by one broadcasting authority of the broadcast of another broadcasting authority and includes diffusion of the broadcast over wires;

“reproduction” means the making of one or more copies of a literary, musical or artistic work, cinematograph film or sound recording;

“sound recording” means the first fixation of a sequence of sounds capable of being perceived aurally and of being reproduced, but does not include a sound-track associated with a cinematograph film;

“work” includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors.

(2) For the purposes of this Act the following provisions shall apply with respect to publication:

- (a) a work shall be taken to have been published if, but only if, copies have been issued in sufficient quantities to satisfy the reasonable requirements of the public;
- (b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work;
- (c) a publication in any country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere, if the two publications took place within a period of not more than thirty days.

Works eligible for copyright

3. — (1) Subject to the provisions of this section the following works shall be eligible for copyright:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) cinematograph films;
- (e) sound recordings;
- (f) broadcasts.

(2) A literary, musical or artistic work shall not be eligible for copyright unless —

- (a) sufficient effort has been expended on making the work to give it an original character; and
- (b) the work has been written down, recorded or otherwise reduced to material form.

(3) An artistic work shall not be eligible for copyright if, at the time when the work is made, it is intended by the author to be used as a model or pattern to be multiplied by any industrial process.

(4) A work shall not be ineligible for copyright by reason only that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

Copyright by virtue of nationality or residence

4. — (1) Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in the case of a work of joint authorship, any of the authors is, at the time when the work is made, a qualified person, that is to say —

- (a) an individual who is a citizen of, or is domiciled or resident in Zambia; or
- (b) a body corporate which was incorporated under the laws of Zambia.

(2) The terms of copyright conferred by this section shall be calculated according to the following table:

<i>Type of Work</i>	<i>Date of Expiration of Copyright</i>
1. Literary, musical or artistic work other than photographs.	Twenty-five years after the end of the year in which the author dies.
2. Cinematograph films and photographs.	Twenty-five years after the end of the year in which the work was first made lawfully accessible to the public.
3. Sound recordings.	Twenty years after the end of the year in which the recording was made.
4. Broadcasts.	Twenty years after the end of the year in which the broadcast took place.

(3) In the case of anonymous or pseudonymous literary, musical or artistic works the copyright therein shall subsist until the end of the expiration of twenty-five years from the end of the year in which it was first published:

Provided that in the event of the identity of the author becoming known the terms of copyright shall be calculated in accordance with the provisions of subsection (2).

(4) In the case of a work of joint authorship, references in the preceding table to the death of the author shall be taken to refer to the author who dies last, whether or not he is a qualified person.

Copyright by reference to country of origin

5. — (1) Copyright shall be conferred by this section on every work, other than a broadcast, which is eligible for copyright and which —

- (a) being a literary, musical or artistic work or a cinematograph film is first published in Zambia; and
- (b) being a sound recording, is made in Zambia; and which has not been the subject of copyright conferred by section 4.

(2) Copyright conferred on a work by this section shall have the same duration as is provided for in section 4 in relation to a similar work.

Copyright in works of Government and international bodies

6. — (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made by or under the direction or control of the Government or such international bodies or other governmental organisations as may be prescribed.

(2) Copyright conferred by this section on a literary, musical or artistic work, other than a photograph, shall subsist until the end of the expiration of twenty-five years from the end of the year in which it was first published.

(3) Copyright conferred by this section on a film, photograph, sound recording or broadcast shall have the same duration as is provided for by section 4 in relation to a similar work.

(4) Sections 4 and 5 shall not be taken to confer copyright on works to which this section applies.

Nature of copyright in literary, musical or artistic works and cinematograph films

7. — (1) Copyright in a literary, musical or artistic work or in a cinematograph film shall be the exclusive right to control the doing in Zambia of any of the following acts, namely the reproduction in any material form, the communication to the public and the broadcasting, of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original:

Provided that copyright in any such work shall not include the right to control—

- (a) the doing of any of the aforesaid acts by way of fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, if any public use of the work is accompanied by an acknowledgment of its title and authorship except where the work is incidentally included in a broadcast;
- (b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;
- (c) the reproduction and distribution of copies, or the inclusion in a film or broadcast, of any artistic work situated in a place where it can be viewed by the public;
- (d) the incidental inclusion of an artistic work in a film or broadcast;
- (e) the inclusion in a collection of literary or musical works which includes not more than two short passages from the work in question if the collection is designed for use in educational institutions and includes an acknowledgment of the title and authorship of the work;
- (f) the broadcasting of a work if the broadcast is intended to be used for educational purposes;
- (g) the making or importing of a sound recording of a literary or musical work and the reproduction of such sound recording if intended for retail sale in Zambia and provided a fair compensation is paid to the owner of the relevant part of the copyright in the work in accordance with regulations made under section 15;
- (h) the reading or recitation in public or in a broadcast by one person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgment;

- (i) any use made of a work for purposes of communication to the public by or under the direction or control of the Government where such use is in the public interest, no revenue is derived therefrom and no admission fee is charged for the communication to the public of the work thus used;
- (j) the reproduction of such number of such works by such public or institutional libraries, non-commercial documentation centres or scientific institutions for the purpose of their activities as may be specified in regulations made under section 15;
- (k) the reproduction of a work by or under the direction or control of a broadcasting authority where such reproduction or any copies thereof are intended exclusively for lawful broadcast of that broadcasting authority and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting authority and the owner of the relevant part of the copyright in the work; any reproduction of a work made under this sub-paragraph may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting authority which are hereby designated official archives for the purpose, but, subject to the provisions of this Act, shall not be used for broadcasting or for any other purpose without the consent of the owner of the relevant part of the copyright in the work;
- (l) the broadcasting of a work already lawfully made accessible to the public with which no licensing body referred to under section 14 is concerned, provided that subject to the provisions of this section the owner of the broadcasting right in the work receives a fair compensation determined, in the absence of agreement, by the competent authority appointed under section 14;
- (m) any use made of a work for the purpose of a judicial proceeding or of any report of any such proceeding.

(2) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original:

Provided that the copyright in any such work shall not include the right to control the reconstruction of a building in the same style as the original.

Broadcasting of works incorporated in a cinematograph film

8. — (1) Where the owner of the copyright in any literary, musical or artistic work authorises a person to incorporate the work in a cinematograph film and a broadcasting authority broadcasts the film, such broadcast shall not, in the absence of any agreement to the contrary, infringe such copyright.

(2) Where a broadcasting authority broadcasts a cinematograph film in which a musical work is incorporated, the owner of the right to broadcast the work shall, subject to the provisions of this Act, be entitled to receive fair compensation from the broadcasting authority:

Provided that in the absence of an agreement the amount of such compensation shall be determined by the competent authority appointed under section 14.

Nature of copyright in sound recording

9. — Copyright in a sound recording shall be the exclusive right to control in Zambia the direct or indirect reproduction of the whole or a substantial part of the recording either in its original form or in any form recognisably derived from the original:

Provided that the provisions of sub-paragraphs (a), (i), (k) and (m) of subsection (1) of section 7 shall apply *mutatis mutandis* to the copyright in a sound recording.

Nature of copyright in broadcasts

10. — Copyright in a broadcast shall be the exclusive right to control the doing in Zambia of any of the following acts, namely, the recording and the re-broadcasting of the whole or a substantial part of the broadcast and the communication to the public in places where an admission fee is charged of the whole or a substantial part of a television broadcast either in its original form or in any form recognisably derived from the original:

Provided that the provisions of sub-paragraphs (a), (i) and (m) of subsection (1) of section 7 shall apply *mutatis mutandis* to the copyright in a broadcast:

Provided further that the copyright in a television broadcast shall include the right to control the taking of still photographs from such broadcasts.

First ownership of copyright

11. — (1) Copyright conferred by sections 4 and 5 shall vest initially in the author:

Provided that notwithstanding the provisions of subsection (7) of section 12, where a work other than a broadcast —

- (a) is commissioned by a person who is not the author's employer under a contract of service; or
- (b) not having been so commissioned, is made in the course of the author's employment;

the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

(2) Copyright conferred by section 6 shall vest initially in the Government or such international bodies or other governmental organisations as may be prescribed.

Assignments and licences

12. — (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as movable property.

(2) An assignment or testamentary disposition of copyright may be limited so as to apply to some only of the acts which the owner of the copyright has the exclusive right to control; or to a part only of the period of the copyright; or to a specified country or other geographical area.

(3) A purported assignment of copyright shall be void if it is not in writing signed by or on behalf of the assignor.

(4) Any document purporting to confer an exclusive licence to do an act falling within copyright shall be construed as a total or partial assignment of the copyright, as the case may require.

(5) A licence to do an act falling within copyright may be written or oral, or may be inferred from conduct, and may be revoked at any time:

Provided that a licence granted by contract shall not be revoked, either by the person who granted the licence or his successor in title, except as the contract may provide, or by a further contract.

(6) An assignment or licence granted by one copyright owner shall have effect as if granted by his co-owners also, and subject to any contract between them, fees received by the grantor shall be divided equitably between all the co-owners:

Provided that for the purposes of this section persons shall be deemed to be co-owners —

- (a) if they share a joint interest in the whole or any part of a copyright; or
- (b) if they have interests in the various copyrights in a composite production, that is to say, a production consisting of two or more works.

(7) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work, or an existing work in which copyright does not yet subsist, and the prospective copyright in any such work shall be transmissible by operation of law as movable property.

(8) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, in the absence of contrary indication, be taken to include the disposition of any copyright or prospective copyright in the work which is vested in the deceased.

Infringements

13. — (1) Copyright shall be infringed by any person who does, or causes any other person to do, an act falling within the copyright without the licence of the person in whom is vested either the whole of the copyright or, where there has been a partial assignment or partial testamentary disposition, the relevant portion of the copyright.

(2) Subject to the provisions of this Act, infringements of copyright shall be actionable at the suit of the owner of the copyright; and in any action for such an infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringement of other proprietary rights.

(3) Where in an action for infringement of copyright it is proved or admitted —

- (a) that an infringement was committed, but
- (b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates,

the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement,

but shall be entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.

(4) Where in an action under this section an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to—

- (a) the flagrancy of the infringement, and
- (b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

(5) No injunction shall be issued in proceedings for infringement of copyright which requires a completed or partly built building to be demolished or prevents the completion of a partly built building.

(6) In this section “action” includes a counter-claim, and references to the plaintiff and to the defendant in an action shall be construed accordingly.

Appointment of competent authority and duties of such authority

14. — (1) The Minister shall appoint such person or persons as he may think fit to be a competent authority for the purposes of this Act.

(2) In any case where it appears to the competent authority that a licensing body—

- (a) is unreasonably refusing to grant licences in respect of copyright; or
- (b) is imposing unreasonable terms or conditions on the granting of such licences;

the competent authority may direct that, as respects the doing of any act relating to a work with which the licensing body is concerned, a licence shall be deemed to have been granted by the copyright owner provided the appropriate fees pre-

scribed by such competent authority are paid or tendered before the expiration of the prescribed period after the act is done.

(3) In this section “licensing body” means an organisation which has as its main object, or one of its main objects, the negotiation or granting of licences in respect of copyright works.

Regulations and extensions of application of Act

15. — The Minister may make regulations prescribing anything to be prescribed or which may be prescribed under this Act and, in particular, shall make regulations extending the application of this Act in respect of any or all of the works referred to in subsection (1) of section 3—

- (a) to individuals or bodies corporate who are citizens of or domiciled or resident in or incorporated under the laws of;
- (b) to works, other than sound recordings, first published in;
- (c) to sound recordings made in;

a country which is a party to a treaty to which Zambia is also a party and which provides for copyright in works to which the application of this Act extends.

Saving

16. — This Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter, so however that this section shall not be taken to render an act done before the commencement of this Act an infringement of copyright under section 13.

Repeal of Copyright Act (Amendment) Ordinance and the Patents, Designs, Copyright and Trademarks (Emergency) Ordinance

17. — The Copyright Act, 1911, of the United Kingdom shall cease to have effect in Zambia and the Copyright Act (Amendment) Ordinance and the Patents, Designs, Copyright and Trademarks (Emergency) Ordinance are hereby repealed.

GENERAL STUDIES

The Zambian Copyright Act

G. STRASCHNOV

*CORRESPONDENCE*

Letter from Czechoslovakia ¹⁾

Jiří NOVOTNÝ
Deputy Director-General of the Czechoslovak
Society of Authors and Composers (OSA)

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
May 4 to 7, 1965 Geneva	Committee of Experts for the Classification of Goods and Services	To bring up to date the international classification	All Member States of the Nice Union	
May 18, 1965 Geneva (Headquarters of ILO)	Constitution of the Intergovernmental Committee (Neighbouring Rights). Meeting convened jointly with ILO and Unesco	Application of Article 32 (1), (2) and (3) of the Rome Convention	Czechoslovakia, Congo (Brazzaville), Ecuador, Mexico, Niger, Sweden, United Kingdom of Great Britain and Northern Ireland	Denmark
July 5 to 14, 1965 Geneva	Committee of Governmental Experts preparatory to the Revision Conference of Stockholm (Copyright)	Examination of the amendments proposed by the Swedish/BIRPI Study Group for the revision of the Berne Convention	All Member States of the Berne Union	Certain Non-Member States of the Berne Union; Interested international intergovernmental and non-governmental organizations
September 28 to October 1, 1965 Geneva	Interunion Coordination Committee (3 rd Session)	Program and budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 29 to October 1, 1965 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (1 st Session)	Program and activities of the International Bureau of the Paris Union	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
Caracas	May 4 to 6, 1965	Inter-American Association of Industrial Property (ASIPI)	Administrative Council
Paris	May 7, 1965	International Literary and Artistic Association (ALAI)	International Commission and Executive Committee
Namur	May 23 to 27, 1965	International League Against Unfair Competition	Congress
Paris	May 31, 1965	International Chamber of Commerce (ICC)	Commission on the International Protection of Industrial Property
Stockholm	August 23 to 28, 1965	International Literary and Artistic Association (ALAI)	Congress
London	August 31 to September 10, 1965	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	Fifth Annual Meeting
Tokyo	April 11 to 16, 1966	International Association for the Protection of Industrial Property (IAPIP)	Congress