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Berne Union

Working Group on the Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs

(Geneva, February 21 to 25, 1977)

Report

prepared by the Secretariat and adopted by the Working Group

Introduction

1. In accordance with the recommendations made by the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union (hereinafter referred to as "the Copyright Committees") at their sessions held in Geneva in December 1975, a meeting of the Working Group on the Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs was held in Geneva from February 21 to 25, 1977. The Working Group was composed of specialists invited in a personal capacity by the Directors General of Unesco and WIPO. The meeting was also attended by the International Labour Organisation and observers from twelve interested international non-governmental organizations. The list of participants is annexed to this report.

2. The documentation available to the Working Group consisted of the study made by Professor Franca Klaver, which had been submitted to the above-mentioned sessions of the Copyright Committees, the comments on the study received from a number of States and international non-governmental organizations and a brief analysis of those comments drawn up by the Secretariat of the Working Group.

Opening of the Meeting

3. The meeting was opened by Mr. Claude Masouyé, Director, Copyright and Public Information Department (WIPO), and Miss Marie-Claude Dock, Director, Copyright Division (Unesco), who welcomed the participants on behalf of their respective organizations.

Election of the Chairman

4. The Working Group unanimously elected Mr. André Kerever, Maître des requêtes au Conseil d'Etat, Paris, as its Chairman.

Terms of Reference

5. It was recalled that the Copyright Committees had, *inter alia*, examined at their 1975 sessions, on the basis of the study by Professor Klaver, the legal problems arising in the field of copyright from the use of audiovisual cassettes and discs and that they had called for the convening of the present Working Group. It was further recalled that, for its part, the Intergovernmental Committee set up by Article 32 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) had recommended, at its session also held in Geneva in 1975, that a parallel study of the question be undertaken in relation to the rights of performers, producers of phonograms and broadcasting organizations. The States and the interested international non-governmental organizations were consequently invited to submit comments on the problems raised by audiovisual cassettes and discs not only from the point of view of copyright but also from that of the protection of performers, producers of phonograms and broadcasting organizations. The Working Group was therefore of the opinion that it should examine the problems relating to the use of videocassettes and audiovisual discs both as regards the international copyright Conventions and as regards the above-mentioned Rome Convention, without prejudice, in the latter connection, to the ongoing procedure decided by the Intergovernmental Committee of the Rome Convention.

General Discussion

6. Professor Klaver presented her study to the Working Group. She explained that its basic aim was to identify the principal features of the legal régime applicable to videocassettes and audiovisual discs under the Berne Convention and the Universal Copyright Convention and that, accessorially, it contained a certain amount of information on the legal régime in

the light of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention). She further emphasized that the legal problems of videocassettes and audiovisual discs had been examined from the viewpoint of the industrialized countries but that the new technique for disseminating intellectual works would also be sure to raise problems in the developing countries, particularly if they had to use videocassettes and audiovisual discs for teaching and informatory purposes.

7. After the participants had unanimously congratulated Professor Klaver on the quality of her study, the Working Group decided to adopt the following order of discussion:

- relevant terminology;
- determination of the legal status of videocassettes and audiovisual discs in the light of the copyright Conventions;
- determination of the same legal status in the light of the Rome Convention on neighboring rights;
- scope of the exceptions to protection allowed under the international Conventions.

Terminology

8. The Working Group devoted its efforts to agreeing on terms to designate, on the one hand, the material support inasmuch as it comprised sequences of sounds and images and, on the other hand, the intellectual content of the support (software) where that content might, depending on the case, consist of a pre-existing work or a work specially made for such fixation and either of those two categories of works might or might not be protected under copyright. Irrespective of the hypothesis chosen, various other contributions would have to be taken into consideration, such as that of the person who organized and took responsibility for the fixation, that of the performers, that of the producers of phonograms and that of the broadcasting organizations. Before returning to the question of terminology at the end of its deliberations, the Working Group agreed that the subject of its examination was to be exclusively software.

9. The Working Group once more noted the differences which existed as regards the nature of the works incorporated in the material supports. A distinction was made between pre-existing works and so-called videographic works, the latter being composed of a number of contributions whose amalgam constituted a work whatever the nature of the material support (magnetic tape or videodisc). Emphasis was placed in this context on the fact that under the legal concepts of Anglo-Saxon origin the fixation itself was protectable or, in other words, the work

and the fixation constituted one work, whereas under the legal concepts of Roman origin the intangible work to be protected could only be either a pre-existing work or a work specially made for incorporation in the support.

10. It was also pointed out that in some opinions the expressions "videocassettes" and "audiovisual discs" referred solely to the material supports, whereas according to other views they covered not only the support but also the sequence of images and sounds incorporated in it, whether or not the latter was protected. In any event, attention was drawn to the need, from a strictly legal point of view, to avoid terms used in everyday speech to denote different situations by means of the same word and thus run the risk of creating confusion.

11. While noting that the terminology might vary as between national legislations, the Working Group expressed its preference for the term "videogram" to mean both the material support for any sequence of images and sounds and the actual fixation of the sequence, irrespective of the legal status afforded under copyright or neighboring rights to the sequence incorporated in the support. It was agreed that the term "videocopy" would designate the reproduction of a pre-existing work and the term "videographic work" would refer to a work specially made for fixing on a videogram. It was agreed that it constituted a type of audiovisual work within the meaning of the Tunis Model Law on Copyright for Developing Countries.

Determination of Legal Status in the Light of the Copyright Conventions

12. In this connection, the Working Group made a fundamental distinction between pre-existing works fixed on videograms (videocopies) and works created specially for videographic fixation (videographic works). With regard to the first case, it was pointed out that the fact of fixing the pre-existing work in no way altered its legal nature or status. As for the second case, the new work specially made for that medium, which, according to some legal concepts, might be indistinguishable from its fixation, had to be governed by a legal status which the experts undertook to define.

13. The attention of the experts was concentrated, as far as countries party to the Berne Convention were concerned, on the legal effect of the assimilation, in Article 2(1) of that Convention, of works expressed by a process analogous to cinematography to actual cinematographic works, in order to determine the extent to which such assimilation also implied application to the said works of the specific legal régime provided for cinematographic works under the said Convention.

14. It was argued in favor of assimilation that the legal régime provided by the Berne Convention for cinematographic works was very suitable for videographic works, that it facilitated their circulation and that it offered greater legal security, particularly with respect to the ownership of copyright and uniformity in rules governing relations between States. It was also pointed out that the creation of those two types of works called for the same combination of creative acts.

15. The arguments put forward against assimilation were that the legal régime applicable to cinematographic works was an exceptional one and should therefore be interpreted restrictively, especially since paragraph (5) of Article 14 of the Brussels Act (1948) of the Berne Convention, which specified that the provisions of that Article applied to reproduction or production effected by any other process analogous to cinematography, had not been included in the Stockholm Act (1967) or in the Paris Act (1971), while the new Article 14^{bis} was silent on the subject of assimilation. Moreover, certain participants expressed the fear that assimilation of videographic works to cinematographic works might adversely affect the interests of authors in that, according to certain systems, ownership of copyright was denied them.

16. It was nevertheless acknowledged that the Berne Convention did not impose any solutions in the matter, and that it was for the national law to determine the legal status of videographic works by attributing, or not attributing, to them the status of cinematographic works.

17. The Working Group noted that under the Berne Convention the legal consequences of the assimilation of videographic works to cinematographic works would be the application of Articles 7(2) (term of protection), 14 (cinematographic and related rights, in particular the right of distribution and protection in cases of cable transmission), 14^{bis} (special provisions concerning cinematographic works) and 15(2) (presumption of the identity of the maker of the work). If there were no such assimilation, cinematographic works would conform to the general rules applicable to other works protected under that Convention, the effect of which would not necessarily be a lesser degree of protection than that afforded by the special provisions on cinematographic works.

18. The Working Group noted that, among the rights applicable to the use of videograms, there was the right of reproduction, which, according to the spirit of the two Conventions, had to take into consideration the use to which the reproduced copies would be put. In the case in point, the latter concept had to be interpreted in the light of business practices

whereby videograms could more frequently be loaned or hired than sold.

19. As far as States party to the Universal Copyright Convention were concerned, it was pointed out, as in the case of countries party to the Berne Convention, that the adoption by a country of a given system for the protection of videographic works would be bound to have an effect on the protection of videographic works originating in other countries as a result of the application of the national treatment principle written into both Conventions.

20. In any event, the Working Group considered that the legal relations between the maker of the videographic work or videocopy on the one hand, and the contributors and authors of pre-existing works on the other, should be dealt with in contracts ensuring unity in the control of the exploitation of the videogram and a minimum of legal security in such exploitation.

21. The Working Group further considered that the most awkward problem with videograms arose from their very nature: they were relatively simple, highly movable carriers, placed at the disposal of the public without there being any practical possibility of controlling the use made of them, whether private or public, commercial, lawful or unlawful. It was thought that those potential violations of the exclusive rights of authors and their successors in title might cause them serious economic prejudice, hamper the development of the new medium and adversely affect the artistic quality of productions.

Determination of Legal Status in the Light of the Provisions of the Rome Convention

22. Before embarking on the above question, the Working Group considered the situation regarding the different categories of beneficiaries under the Rome Convention, particularly performers. The experts' attention was drawn to the risk of unemployment, which was becoming greater and greater with the ever more widespread introduction of new technology permitting the multiple use of one and the same recording. It was observed that the remuneration of performers was not necessarily related to the use made of their performances and that it would be desirable that they themselves should be able to control such use.

23. The legal status of contributors to videograms being determined at the international level by the provisions of Articles 7, 10, 13 and 19 of the Rome Convention, the adverse effects of the last-mentioned Article on performers were alluded to, and it was remarked that, of all the beneficiaries of the Rome Convention, they were the least well protected. It was observed, however, that the national law was free to

give performers more extensive rights than those granted to them under the Rome Convention, and indeed that some legislators had already enacted provisions along those lines (in Mexico, for instance).

24. The Working Group considered a number of solutions to the problem of improving the present position of performers. For instance, it was proposed that a right be granted by contract that would not be a right of prohibition with regard to the use of their performances — which would tend to hamper the circulation of videograms and harm the interests of authors and other contributors — but rather a right to remuneration for certain secondary uses. However, some misgivings were expressed as to the effectiveness of such a solution, whether it took the form of collective agreements negotiated at the national level or of an international model contract, since the result depended on a degree of balance between the forces involved, and moreover the success of any contractual policy was conditioned by the legal basis on which it was founded.

25. The Working Group considered furthermore that the crisis in the performing profession was essentially an employment crisis, and that the grant of remuneration for certain uses of performances would do little to remedy the situation. It thought that the solution might lie in areas situated beyond the purview of the Rome Convention and concerned as much with labor law as with the definition of a cultural policy designed to encourage the living arts.

26. As regards the performer's position as a worker, the wish was expressed that studies should be conducted, possibly under the auspices of the Secretariat of the Intergovernmental Committee of the Rome Convention, to assess the effects of technological progress on the employment situation of performers.

27. As regards a cultural policy aimed at remedying the prejudice caused to the interests of performers by the proliferation of electronic techniques enabling the use of live performances to be dispensed with, it was suggested that the mass communication organizations devote a part of their investments to measures to promote the living arts (increase in the number of orchestras and theater companies, etc.). The Working Group was further informed of the possible adoption by the Unesco General Conference of a recommendation on the status and social position of the artist and took note of the relevant studies conducted by Unesco, in some cases in conjunction with the ILO. The Working Group felt that such an approach was capable of providing a global view of the problem as regards both the legal and the social and economic situation of performers.

28. The attention of the Working Group was also drawn to the inadvisability of revising the Rome Convention since it could have an adverse effect on the current trend towards a wider application of that Convention throughout the world, even if some of its provisions might seem obsolete in view of technological progress and no longer corresponded to the present situation, as for instance in the case of Article 19 in the audiovisual field.

29. The Working Group felt that the use of videograms would raise no major legal problems for the producers of phonograms or the broadcasting organizations since Articles 10 and 13 of the Rome Convention recognized the principle of an exclusive right in their favor.

Scope of the Exceptions to Protection Permitted by the International Conventions. Private Use

30. The attention of the Working Group first centered on the problems raised by the private use of videograms. Before examining the legal implications of such use, the experts noted the technical differences between videocassettes and videodiscs, particularly as regards the possibilities of reproduction. In the current state of technical progress, it would hardly be possible for an individual possessing limited facilities to reproduce the content of a videodisc. On the other hand, reproduction by means of a videocassette was much more simple and could be effected, depending on the type of equipment, from a television broadcast, a videodisc or another videocassette.

31. As regards the legal aspect, the Working Group noted that in most national legislations both private use and fair use were exceptions to copyright and neighboring rights, although the concept and limits of such uses could vary from country to country.

32. It was pointed out that under Article 9(2) of the Berne Convention private use was not automatically lawful. For it to be permitted, it was necessary that reproduction did not conflict with a normal exploitation of the work and did not unreasonably prejudice the legitimate interests of the author. The Working Group considered that, in view of the ease of reproducing videograms in the form of videocassettes, it was probable that such a mode of reproduction would not satisfy the restrictive conditions laid down by the above-mentioned provision and that, consequently, such reproductions were subject to the exclusive right of reproduction under the Berne Convention.

33. On examining the provisions of the Universal Copyright Convention on the right of reproduction and the exceptions to it, the Working Group considered that the level of protection introduced by the

text as revised in 1971 was no lower than that provided by the Berne Convention, and that, consequently, the exceptions to the right of reproduction permitted by the said revised text were not substantially different, as far as their scope was concerned, from those provided for in Article 9(2) of the Berne Convention. The Working Group was informed, moreover, that certain copyright owners who were nationals of the United States of America had instituted legal proceedings against the manufacturers of reproduction apparatus on grounds of violation of the exclusive right and the limits of fair use.

34. In the face of this situation, the Working Group felt it necessary to draw attention to the fact that a great number of national legislations had not considered all the consequences of the restrictive conception of the limits on the right of reproduction provided for in the two Conventions mentioned. If those limits were to be respected, the Working Group thought that, as long as the state of technical progress did not allow copyright owners effectively to exercise the prerogatives of the exclusive right in the event of the private reproduction of videograms, the only solution seemed to be the establishment of a global compensation for authors or their successors in title. It was pointed out that such payment would be in the nature not of a tax or other monetary imposition, but rather of an indemnification for being deprived of the opportunity to exercise exclusive rights.

35. The experts discussed the question whether the compensation should relate to the reproduction apparatus itself or to the material support on which the sequences of sounds and images were fixed, and indicated their preference for the latter solution.

36. It was nevertheless pointed out that, if there were technical processes making it possible to prevent the reproduction of protected works by individuals, the exclusive right could be exercised normally, and consequently the global compensation system, which was only an imperfect solution, could be abandoned.

37. As regards the owners of neighboring rights, the Working Group noted that Article 15 of the Rome Convention provided for full exemption in respect of private use and therefore the owners could not claim, as could the authors, the exclusive rights provided for in that Convention with respect to such reproductions. It was felt, however, that the dissemination of videograms and the ease of reproduction referred to above were prejudicial both to performers and to producers of phonograms and broadcasting organizations. The experts were therefore of the opinion that, although it was impossible to invoke the obligations under an international agreement, considerations of equity justified the provision by national laws for participation by the owners of neighboring rights in

the proceeds of the global compensation. In this connection, mention was made of the relevant provisions in the legislation of the Federal Republic of Germany.

38. The Working Group felt it desirable that the payments in question should be received by those persons whose rights and interests were prejudiced by the private use of videograms and that collective agreements should settle the terms of distribution.

Use for Teaching Purposes

39. The Working Group first considered Article 10(2) of the Berne Convention, which made it a matter for national legislation to lay down the conditions for using works by way of illustration in teaching. The scope of the provision was clarified by the Report on the deliberations of the Stockholm Revision Conference of 1967, which stated that the word "teaching" included teaching at all levels, i. e., in educational institutions and universities, municipal and State schools, and private schools. It was further recalled that the commentary on Section 7(i)(c) of the Tunis Model Law on Copyright for Developing Countries, which reproduced that provision, stated that the exception to copyright could relate to only a part of the work used as an illustration in teaching and that the work itself must have been made for the purpose of teaching.

40. With regard to the Universal Copyright Convention, the Working Group referred to Article IV^{bis}, paragraph 2, which allowed exceptions to the exclusive right of reproduction, on the understanding that they were not to conflict with the spirit and provisions of the Convention, and that a reasonable degree of effective protection had to be accorded. The way in which it should be interpreted was explained in the Report on the 1971 Revision Conference, according to which, subject to the provisions on the general translation license, there could be no question of the institution by developed countries of a general system of compulsory licensing for the publication of works. The expression "general system" referred either to a system applying to a specific type of work in all its forms of use or to a system applying to all types of works in one particular form of use. Moreover, where exceptions were made they had to have a logical basis and must not be applied arbitrarily; the protection offered had therefore to be effectively enforced by national legislation.

41. Owing to the increasingly widespread use of videograms in teaching and lifelong education, the Working Group expressed the wish that the national authorities involved might become aware of the need to specify the exact conditions under which excep-

tions to the exclusive right could be allowed in accordance with the letter and the spirit of the provisions of the Conventions referred to above.

42. The Working Group also considered that, within the limits set by the Conventions, the exceptions introduced for teaching purposes should not have an adverse effect either on creative activity or on the conditions governing normal use of videograms.

Final Considerations

43. In the light of its discussions, the Working Group came to the conclusion that the international copyright Conventions already contained provisions which afforded copyright owners adequate protection as regards the use of videograms and that, consequently, the advent of the new dissemination technique did not call for a revision of the existing Conventions or the establishment of a new international instrument.

44. The Working Group also felt that, for the time being, a revision of the Rome Convention was not advisable.

45. On the other hand, the Working Group was of the opinion that it was the national legislations that should be amended to specify the relevant solutions, taking into account the considerations which had emerged from its discussions.

Closing of the Meeting

46. The Secretariat of the Working Group stated that the present report would be submitted to the Copyright Committees at their sessions to be held in Paris in November 1977.

47. After the usual thanks, the Chairman declared the meeting closed.

List of Participants

I. Members of the Working Group

Mr. Evgueni Guerassimov
Deputy Chief, Treaties Section, Legal Department, Copyright
Agency of the USSR, Moscow

Mr. Robert D. Hadl
Lawyer, Washington

M. André Kerever
Maître des requêtes au Conseil d'Etat, Paris

Dr Franca Klaver, Professeur, Hilversum

Sr. Jaime Muñoz

Sub-Director de Asuntos Internacionales, Dirección General
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nistère de la culture, Dakar

M. Abderrazak Zerrad

Directeur général, Bureau marocain du droit d'auteur, Minis-
tère de l'information, Rabat

II. Observers

(a) Intergovernmental Organization

International Labour Office (ILO): S. C. Cornwell.

(b) International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé. International
Confederation of Professional and Intellectual Workers
(CITI): A. L. Dupont-Willemin. International Confederation
of Societies of Authors and Composers (CISAC): J.-L.
Tournier; J.-A. Ziegler; J. Elissabide. International Copyright
Society (INTERGU): G. Halla. International Federation of
Actors (FIA): G. Croasdell. International Federation of Film
Producers Associations (FIAPF): A. Brisson. International
Federation of Musicians (FIM): R. Leuzinger. International
Federation of Producers of Phonograms and Videograms
(IFPI): S. M. Stewart; G. Davies; J. Goldsmith; W. Nick;
E. Thompson. International Literary and Artistic Associa-
tion (ALAI): J.-A. Ziegler; R. Fernay. International Music
Council (IMC): R. Leuzinger. International Publishers Asso-
ciation (IPA): J. A. Koutchoumow. International Writers
Guild (IWG): R. Fernay.

III. Secretariat

World Intellectual Property Organization (WIPO)

C. Masouyé (*Director, Copyright and Public Information
Department*); M. Stojanović (*Head, Legislation and Period-
icals Section, Copyright Division*).

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock (*Director, Copyright Division*); D. de San
(*Lawyer, Copyright Division*).

National Legislation

ARGENTINA

I

Decree concerning Article 56 of Law No. 11 723

(No. 746, of December 18, 1973) *

Article 1. For the purposes of Article 56 of Law No. 11 723, the following shall be considered to be performers:

- (a) the conductor of an orchestra, the singer, and the performing musicians, as individuals;
- (b) the director of, and the actors in, cinematographic works and of recordings, with images and sound, on magnetic tapes, for television;
- (c) the singer, dancer, and any other person who

acts, sings, delivers, plays in, or otherwise performs a literary, cinematographic or musical work.

Article 2. The following are regarded as suitable means for transmitting the work of performers: discs, various kinds of recordings on magnetic tapes, recordings with images and sound on magnetic tapes for television, films and any other technical element that serves for the diffusion by radio or television, cinemas, dance-halls or clubs, or any other public place operating for direct or indirect commercial exploitation.

* This Decree was published in the *Boletín Oficial* of December 28, 1973. — Unesco/WIPO translation.

II

Decree containing rules for the microfilming of periodical publications

(No. 447, of August 7, 1974) *

Article 1. The proprietors of the periodical publications registered in the *Dirección Nacional del Derecho de Autor* [National Copyright Department] who microfilm their editions must inform thereof the said Department and preserve the published copies for one year, and at the end of such term shall send

copies to the *Biblioteca Nacional* [National Library].

Article 2. Microfilms which are a substitution for printed copies shall remain at the disposal of the *Dirección Nacional del Derecho de Autor* which may require, free of charge, a legible enlargement, certified by the management of the periodical, of the protected works published in the latter.

* Unesco/WIPO translation.

III

Decrees containing rules on the public utilization of phonographic reproductions

(No. 1670, of December 2, 1974) *

Article 1. The text of Article 35 of Decree 41 233/34 is replaced by the following text:

“Phonographic records and other supports of phonograms may not be communicated to the public, nor transmitted or retransmitted by radio and/or television, without the express authorization of their authors or their successors in title.

Without prejudice to the rights which the law grants to the authors of literary works, to composers of music and to principal and/or secondary performers, the producers of phonograms, or their successors in title, are entitled to collect a remuneration from any person who, occasionally or permanently, obtains a direct or indirect benefit from the public use of a reproduction of the phonogram, such as broadcasting, television and similar organizations, bars, cinemas, theaters, social clubs, recreational centers, restaurants, cabarets and, in general, any person who communicates such reproductions to the public by any direct or indirect means.

It will not be necessary for any payment to be made for occasional use of a didactic character, or of patriotic commemorations in official or State-authorized educational establishments.”

Article 2. The text of Article 40 of Decree 41 233/34 is replaced by the following text:

“Any person who exploits places in which musical works of any kind, with or without words, are publicly performed, or impresarios or organizers or directors of orchestras, as the case may be, or owners of, or persons having responsibility for, the users of phonographic reproductions referred to in Article 35 of this Decree, must indicate in daily lists, in strict order of performance, the titles of all works performed, the name of the author of the words and the composer of the music, together with the names or

pseudonyms of the principal performers and of the producer of the phonogram, or such person's distinguishing sign or mark relevant to the reproduction concerned.

These lists shall be dated and signed, and placed at the disposal of the interested parties within thirty days from the date upon which the performance or the communication to the public took place. The interested parties or their representatives may, on their own responsibility, denounce to the Director-General of the National Copyright Registry cases of total or partial non-fulfilment of this obligation, and the person responsible shall be liable in each case to a fine of \$ 5000 — for the benefit of the *Fondo Nacional de las Artes* [National Fund for the Arts], any such payment being effective without prejudice to any action which may be taken by the owners of the rights.

Any person who makes substitutions in the lists of the titles of words and/or of the names of authors of words or music, or of the principal performers, or of the producer of the phonogram, or who omits to mention a work which has been performed or communicated to the public, or who makes mention of a work which has not been performed or communicated to the public, or in any way falsifies the form or contents of the lists, shall be subject to the penalties referred to in Article 71 of the Law.”

Article 3. The fixation of the performance of a musical work upon a material base requires the previous consent of the principal performer or performers of the work in question.

Article 4. The principal performer of a musical and/or literary work is entitled to require the mention of his name or pseudonym when his performance is diffused or transmitted, and also that his name or pseudonym shall be indicated on the label and upon any corresponding packaging of the actual phonogram.

* Decrees Nos. 1670 and 1671 were published in the *Boletín Oficial* of December 12, 1974. — Unesco/WIPO translation.

(No. 1671, of December 2, 1974)

Article 1. The representation, within the national territory, of Argentine and foreign performers, and their successors in title for the purpose of collecting and administering the remuneration provided for in Article 56 of Law No. 11 723 for the public performance, transmission or retransmission by radio and/or television of their performances, fixed by phono-

grams and reproduced on discs or other means, shall be exercised by the *Asociación Argentina de Intérpretes (AADI)* [Argentine Association of Performers], which accordingly remains the sole organization authorized to agree with third parties for the collection, adjudication and distribution of the monies collected through the body mentioned in Article 7.

Article 2. Representation of Argentine and foreign producers of phonograms, whose production is the subject of publication, utilization or reproduction within the national territory, shall be exercised by the *Cámara Argentina de Productores e Industriales de Fonogramas (CAPIF)* [Argentine Chamber of Producers and Manufacturers of Phonograms], which is authorized as the sole organization to collect and administer, directly or indirectly, through the body mentioned in Article 7, the remuneration due to them for the public performance of their phonograms, reproduced upon discs or other means, and which derive protection under Law No. 11 723 and regulations thereunder.

Article 3. The civil associations, the Argentine Association of Performers and the Argentine Chamber of Producers and Manufacturers of Phonograms shall, where necessary, adjust their constitution and regulations to comply with the present Decree.

Article 4. The *Secretaria de Prensa y Difusión de la Presidencia de la Nación* [Secretariat of Press and Diffusion of the National Presidency], in cooperation with the Argentine Association of Performers and the Argentine Chamber of Producers and Manufacturers of Phonograms, shall fix and modify the tariffs to be paid by users for the use of discs or other reproductions of phonograms by way of their public performance or diffusion by any means.

Article 5. The remuneration to be paid by users by virtue of the rights to which this Decree refers shall be consolidated and distributed in the following manner:

- (a) the 67 percent to be distributed by the Argentine Association of Performers shall be paid to the performers who, at all levels, have participated in the performance fixed upon phonograms, in accordance with the rules established by their statutes. This percentage shall be distributed as follows: principal performer(s), 67 percent; secondary performer(s) 33 percent (45 percent and 22 percent, respectively, of the total paid by the user);
- (b) the 33 percent to be liquidated by the Argentine Chamber of Producers and Manufacturers of Phonograms shall be paid to the producer of phonograms who is entitled to the amount collected, or to his successors in title.

Article 6. The remuneration paid by users for the utilization in public performances of foreign phonograms which have not been published in the country, and when no agreement exists for their distribution between the collecting bodies and the owners of rights or their successors in title, shall belong to the *Fondo Nacional de las Artes* [National Fund for the Arts], which may enter into agreements with the bodies specified in this decree for their collection.

Article 7. The direct or indirect collection of the remuneration to be paid by users by virtue of the provisions of this Decree shall be effected by a body constituted by the Argentine Association of Performers and by the Argentine Chamber of Producers and Manufacturers of Phonograms, which shall be a civil association having legal status, and whose governing rules shall be determined by agreement between both organizations.

Correspondence

Letter from Australia

Report of Australian Copyright Committee on Reprographic Reproduction

D. C. PEARCE *

Book Reviews

Les conventions internationales du droit d'auteur et des droits voisins, by *Henri Desbois, André Françon* and *André Kerever*. One volume of 452 pages. Editions Dalloz, Paris, 1976.

1. In the Introduction to the volume, the authors — eminent French jurists who, as is well known, can be considered as being among the framers of the international regulations in our field of interest, particularly over the past decade — give an outline of the work.

Part I of the volume (The international conventions on copyright) contains an analysis of the Berne Convention (Acts of 1886, 1896, 1908, 1914, 1928, 1948, 1967) and of the Universal Copyright Convention of 1952, and then moves on, for both Conventions, to the most recent stage — that of Paris, 1971. Part II (Conventions concerning the neighboring rights) is devoted to the arrangements made, in the context of other international conventions, for protecting contributions connected with the dissemination of intellectual works: in the first place the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961); then the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Geneva, 1971); and, lastly, the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels, 1974). The volume ends with a bibliographical note and with the texts (in French), as regards copyright, of the Paris Acts of the Berne Convention and the Universal Convention and, as regards neighboring rights, of the three international Conventions mentioned above.

2. Part I of the volume comprises 316 pages, while Part II has only 75 pages, so that the book is mainly devoted to the conventions on copyright in the strict sense and, more particularly (from p. 125 to p. 316), to the most recent international Acts drawn up and signed at Paris, separately but over the same period (July 1971) and concerning respectively the Berne Convention and the Universal Convention. The authors have thus drawn the reader's attention, at least in terms of the proportion of the volume devoted thereto, to the most recent stage of copyright development in the international field, notwithstanding the fact that, as they point out, the earlier Acts do not merely belong to the past but are still in force "dans la mesure où, pour des raisons diverses, des Etats d'ores et déjà liés n'ont pas cru devoir accéder aux étapes ultérieures" (to the extent that, for var-

ious reasons, States that are already bound have not deemed it necessary to move on to the later stages) (regarding the effects of subsequent Acts of a Convention, see, among my other writings, some remarks of a general character on the relationships existing among all the countries of the Union, whether or not they are bound by a common Act, in the "Report on the Work of Main Committee IV" of the Stockholm Diplomatic Conference, *Records of the Intellectual Property Conference of Stockholm (1967)*, Vol. II, p. 1215, WIPO, Geneva, 1971). In addition, as regards in particular the Paris Act of the Berne Convention, Article 34(1) provides that:

Subject to Article 29^{bis}, no country may ratify or accede to earlier Acts of this Convention once Articles 1 to 21 and the Appendix have entered into force.

This wise and simplifying provision in a complex field has been in application for some time already, more specifically since the date of entry into force of the Paris Act (October 10, 1974), pursuant to Article 28(2) of that Act.

The authors of the book devote only a few pages (pp. 56 to 67) to an analysis of the Stockholm Act, because of the fact that their commentary on Articles 1 to 20 (substantive provisions) is presented in connection with their examination of the subsequent Paris Act, in which those provisions were included without any change. The commentary on the Protocol Regarding Developing Countries, which forms an integral part of the Stockholm Act, could obviously have been written only in retrospect, as the authors have noted, since that instrument (which later became the Appendix to the Paris Act) never entered into force, by reason of the subsequent entry into force of the Paris Act and the automatic application of the "closing" clause mentioned above.

Thus the Stockholm Protocol was superseded by the Appendix to the Paris Act of 1971 in which, as the authors have pointed out, "ont été corrigées des erreurs et abandonnées les outrances commises quatre ans plus tôt" (mistakes and excesses committed four years earlier were put right). Despite these rather hard words by three eminent French jurists, I feel bound to reaffirm that the Stockholm Conference had the by no means negligible merit not only of having carried through far-reaching measures in the field of intellectual property, in particular as regards the revision of the Brussels Act on copyright, but also of having tackled problems that were absolutely new with a view to meeting, in our field of activity, the needs of the "third world" countries, even if in this context such problems had been solved

with too much generosity as regards the developing countries in the difficult task of seeking a balance with certain contrasting interests of the developed countries, more particularly those whose national language is fairly widely used among local populations.

Unfortunately, to the extent that the Protocol formed an integral part of the text of the Convention, it represented the hazard on which foundered the whole "ship" of the Stockholm revision of the Brussels Act of 1948. The merits of the Stockholm Protocol were, however, underlined in the General Report of the Paris Conference where we read that, without the work of the Stockholm Conference, "the present Conference could not have achieved the unanimous agreement which it had achieved in respect of those questions"; and the Conference itself expressed its recognition in general by a reference in the preamble to the Paris Act in these terms:

The countries of the Union, . . .

Recognizing the importance of the work of the Revision Conference held at Stockholm in 1967,

Have resolved to revise the Act adopted by the Stockholm Conference, while maintaining without change Articles 1 to 20 and 22 to 26 of that Act.

(As regards the Stockholm Diplomatic Conference on Intellectual Property, which was of such complexity and brought into existence the World Intellectual Property Organization (WIPO), see my detailed study published in *Il Diritto di Autore*, 1967, and *Rassegna della proprietà industriale, letteraria e artistica*, Milan, 1967; regarding earlier Acts of the international conventions on copyright, see for my views the following two monographs: *La Convenzione internazionale di Berna — Commento agli Atti di Roma e di Bruxelles*, Rome, 1949; *La Convenzione universale del diritto di autore*, Rome, 1953; regarding the Paris Act, see "Le revisioni di Parigi della Convenzione universale del diritto di autore e della Convenzione di Berna," in *Il Diritto di Autore*, 1972, pp. 132 *et seq.*, and, translated into English, in *Copyright*, 1972, pp. 241 *et seq.*).

3. In their careful analysis of the Paris Conventions of 1971, the authors of the volume have followed a systematic plan, with respect to the Berne Convention, as for the earlier Acts, and have examined first problems concerning the field of application of the Convention, then problems concerning its structure, and lastly the final clauses.

On this occasion, it is obviously not feasible to examine the views of the authors on the many and varied problems involved, in particular as regards problems of interpretation, in connection with the work done in the course of the two Diplomatic Conferences, as described in detail in the relevant official Records (for the Universal Convention, *Records of the Conference for Revision of the Universal*

Copyright Convention, Unesco, Paris, 1973, and, for the Berne Convention, *Records of the Paris Conference*, 1971, WIPO, Geneva, 1974). I shall limit myself, therefore, for the Berne Convention, to presenting some considerations regarding the field of application and the relevant criteria of eligibility, and also regarding the concept of country of origin (pp. 130 to 155) and, for the revised Universal Convention, regarding what the authors term "la proclamation du droit exclusif" (the proclamation of the exclusive right) (pp. 238 to 244).

I would observe, first and foremost, that the Berne Union can be said, throughout its long life, never to have ceased moving on from stage to stage both as regards the continuing increase in the number of member countries and also, by virtue of its effects on the more recent Universal Convention, as regards its general and original mission, as outlined by its founders — namely, to promote throughout the world the protection of the rights of creators of intellectual works in all the various fields of activity which, as time passes, are becoming increasingly numerous, more especially because of technical progress. At the present time, nevertheless, it is above all the chapter of the Convention that concerns the various criteria of eligibility, which are laid down in the Convention itself and are closely relevant to relations between individuals, rather than the chapter on protected works, which is of greatest significance for the internal application within each member country of the protection that the Union affords. In this field the Paris Act (which reproduces the Stockholm provisions), while aiming at extending protection under the Convention in relations between different countries, has not, unfortunately, afforded more flexible application of the system, in particular because of the inclusion, alongside the simpler criterion of the place of first publication of a work, of the criterion of the author's nationality and, lastly, that of the place of habitual residence, the latter criterion being assimilated to nationality.

As regards this chapter, the authors of the book underline the various interpretations that can be drawn from reading the Paris text in comparison with that of Brussels in which, for example, the criterion of nationality is relevant only in respect of "unpublished" works. Of particular interest, still in the same chapter, is the description of the so-called "subsidiary criteria" of eligibility for cinematographic works, works of architecture and works of the graphic or plastic arts that are incorporated in a building (pp. 139 to 142). The "promotion" of the maker, a new provision under which the coverage of the Convention extends to a cinematographic work when the maker thereof has his habitual residence or his headquarters in one of the countries of the Union (depending on whether the maker concerned is a

natural person or a corporate body), while adding to the practical difficulties of applying the Convention, has nevertheless represented recognition of the factual realities.

While Articles 3 and 4 of the Stockholm/Paris Convention provide for the various criteria of eligibility for protection, the ensuing provision, Article 5, is concerned with the so-called "country of origin." Although this new presentation of the differences between the various concepts has not substantially modified the earlier texts, it has made them easier to understand, as is well known, by differentiating between the question of application of the Convention in the individual case (criterion of eligibility) and that of the so-called country of origin, which is relevant for extension of the protection afforded by the Convention from various aspects, in particular as regards calculation of the term of protection of a work. Thus, clarification has been given implicitly that protection under the Convention cannot be claimed in the country of origin of the work. This latter principle has been in constant practice in Italy hitherto, including in case law (in this connection, see among my writings "*La Cour constitutionnelle italienne et le droit d'auteur*" — *Homage à Henri Desbois — Etudes de propriété intellectuelle*, Dalloz, Paris, 1974, pp. 302 *et seq.*). Nevertheless, in order to avoid any disparity of protection, when the protection is smaller under the purely domestic copyright situation, in comparison with the situation under the Convention, in recent years the various enactments of the Italian administration ratifying international conventions have been accompanied by appropriate amendments to the domestic legislation. This explains the slowing down of the relevant procedures (thus, Italy today is bound only by the Brussels Act of 1948 and the Universal Convention of 1952, while the bill providing for ratification of the Paris Acts is still before Parliament, together with provisions empowering the Government to issue decrees making broad amendments to the domestic legislation, while Law No. 424 of April 28, 1975, providing for the implementation in Italy of the various Acts adopted by the Stockholm Diplomatic Conference and authorizing their ratification, has led only to the ratification at international level of the Acts concerning industrial property and of the provisions of the Convention establishing WIPO).

As regards the "proclamation du droit exclusif" (proclamation of the exclusive right) in the revised Universal Convention, the authors of the book are perhaps unduly optimistic because, if it is true that the new Article IV^{bis} has checked the intention of some government delegations of strengthening the principle of a general right to compensation, within the context of protection of works under the Conven-

tion, the exceptions to the principle of the exclusive right granted to the various contracting States seem to be quite far-going (as regards the "reasonable level of effective protection," see my own interpretation in the aforementioned study of the Paris Acts). On the other hand, one cannot disregard the crisis regarding the "myth" of the exclusive and uncontrolled right in this era of the "media," of global licensing for utilization and at a time when, in very many sectors of activity, one can perceive a weakening of the very identity of the author and of his work. I should like to add, still in connection with Article IV^{bis}, that, considering the fairly flexible wording of the provision set forth in paragraph 2, any infringements of the international obligation regarding the exclusive right would be difficult to settle in "direct" private relations where the order has not been "transformed" into domestic legal norms, the matter being more one of an obligation under public law at international level, of a direct order to the contracting State, than one of the formulation of an exclusive right that can be directly implemented in civil relations between individuals. On the other hand, obligations under public international law that do not generate obligations under private international law in the country where protection is claimed do not appear in the Universal Convention alone, but are still more explicitly envisaged in other international conventions within our field of interest. In this connection, I would mention the wording of Article 7 of the Rome Convention on neighboring rights: "... shall include the possibility of preventing ..." and, above all, the wording of the more recent Brussels Convention relating to the distribution of programs by satellite: "Each Contracting State undertakes to take adequate measures to prevent ..."

Because of the possible need for changes in domestic legislation to bring it into conformity with international obligations, with a view to the settlement of situations covered by conventions, national legislators must therefore, as mentioned above in connection with my own country, lay down appropriate provisions to ensure increasing uniformity of treatment as between situations covered by the conventions and situations of a purely national, domestic character. This desirable legislative method enhances, in practice, the benefits deriving from the general principle of assimilation, by facilitating the solution, in a given member country, of questions of civil law in our field of interest — questions that are often somewhat complex because they involve various contributions of a creative, interpretative, technical and industrial nature, which are increasingly numerous in the world of today, particularly in regard to works produced in certain sectors (for example, television) which are the subject of active exchange between one country and another.

In this context, I should like to mention the benefits that can accrue from the text of the Model Law on Copyright for Developing Countries, adopted by the Committee of Governmental Experts convened at Tunis by the Tunisian Government in March 1976, with the assistance of WIPO and Unesco, if, as we hope, the model law is utilized extensively. In practice, the adoption of such a set of rules in the domestic legislation of the various countries can afford a solution to the specific and complex legal questions that arise under the international regulation, even though the regime of protection may be substantially identical; those questions are carefully examined by the authors of the book under reference, in Part I, Title 2:1 (pp. 259 to 305), as regards the compulsory licensing established by the revised Universal Convention, and in Title 2:2 (pp. 306 to 316), as regards the reservation system and the other measures adopted under the Paris Act of the Berne Convention. From reading this detailed analysis of these varied, specific international rules established under the two Conventions, one can readily understand the reasons why, at least to date, their "direct" application has been so limited.

4. In Part II of the book which, as mentioned, is devoted to the international conventions on the so-called neighboring rights, the reader's attention will be drawn in particular to the pages concerning the 1961 Rome Convention (Title I, pp. 319 to 346). The first chapter outlines briefly the developments leading up to the Convention, the second examines the content thereof, and in the third chapter the authors consider the future "destiny" of this international instrument.

As regards the developments that led up to the Convention and the content thereof, the present writer has already had occasion to express his views, in the period immediately following the signature of the international instrument, in his monograph entitled *La Convenzione internazionale per la protezione degli artisti interpreti o esecutori, dei produttori di fonogrammi e degli organismi di radiodiffusione*, Rome, 1963, to which I would refer the reader; as regards the links between the Rome Convention and the more recent Conventions of Geneva and Brussels, likewise on neighboring rights, and more particularly as regards the chapters on "definitions" and elements of eligibility for application of these international Acts, I would refer the reader to my articles entitled "Some general considerations on the recent Geneva Convention for the protection of phonograms" (*Copyright*, 1972, p. 111) and "Satelliti spaziali di comunicazione e diritto di autore" (*Il Diritto di Autore*, 1969, pp. 1 *et seq.*) in which, in connection with this latter line of reasoning, I presented various considerations that reflect my views, although they were made prior to the Brussels Diplo-

matic Conference, to the extent that they referred to matters that came under preliminary discussion in a working party convened by the Director of BIRPI in Geneva, particularly on the question of the scope of the concept of broadcasting and also in relation to the Rome Convention.

As is known, to date France has not acceded to the Rome Convention nor does it have any specific legislative provisions in that respect, so that, as regards protection of the neighboring rights of performers, case law has had to base itself on the general principles for protection of personal rights. As regards the rights of performers, a similar legislative situation can be said to exist in the United States of America; and yet, despite the prominent role played by that country's delegation at the Rome Diplomatic Conference, the United States is likewise not a party to the Rome Convention.

This domestic situation of some major countries, together with the fact that the authors' associations, particularly in France, have not in the past shown themselves to be particularly favorable towards such a system of international protection, helps to explain why, although the Rome Convention entered into force in 1964, by January 1, 1977, only 19 countries had acceded to it, notwithstanding the broad range of reservations allowed.

Furthermore, fewer than 50 countries have to date adopted specific and coordinated provisions regarding neighboring rights. This situation led the Intergovernmental Committee of the Rome Convention to take the initiative with a view to a model law in this field, the adoption of which might facilitate more numerous accessions to the Rome Convention.

The authors of the book under reference are not very optimistic as regards the "fate" of the Rome Convention and have briefly stated their reasons as follows: in the first place, the problem of the protection of neighboring rights emerged in an acute form only relatively recently, so that, as already mentioned, not very many countries have to date enacted legislation in this field, while Article 26 of the Convention requires that countries intending to ratify it must already have legislation consistent with that diplomatic instrument; secondly, by reason of its structure, the Rome Convention is considered to be pursuing unduly ambitious objectives, by endeavoring to secure, simultaneously, the protection of three different categories of rights; in the third place, the Convention is said not to be favorably regarded, today, by the broadcasting organizations in that it does not any more seem appropriate for protecting their interests, particularly in view of technical developments (for example, transmission by satellite, cable television and so forth).

As the authors themselves recognize, however, the disadvantages deriving from the third reason mentioned could be overcome through an appropriate revision of the Rome Convention (and, in this connection, it should not be forgotten that the Convention has already been in existence for 15 years, over a period that has seen major transformations of a social and, still more, of a technical character); as regards the situation mentioned in the context of the first consideration, this could change following the elimination of the disadvantages of the third. There would then remain only the obstacle of the structure of this international instrument: it seems to me, however, that the very structure of the Rome Convention should be appreciated more and more at the present juncture, in that it allows the regulation, under the same international instrument, of categories of rights that are admittedly different from one another, but, because they can generally be exercised upon the same material support and because they are often related to the exercise of copyright (which if the work is in the public domain as regards its economic utilization is not merely a matter of safeguarding the personal rights of the author, but also in the interests of culture), they can be compared and balanced with each other if they are regulated by the same instrument, even though they are dealt with in separate chapters. But who knows, it is perhaps precisely because of its "progressive" structure that the Rome Convention is encountering so many difficulties.

5. This note of mine on the book by three distinguished French jurists could conclude with these considerations on the Rome Convention. Nevertheless, the fact that the legal regulation of copyright and neighboring rights in the international field is presented in one volume, though examined in separate chapters, has awakened some reflections on my part and has strengthened trends of thought that, with the reader's permission, I should like briefly to outline on this occasion.

In the course of the acute crisis of international copyright law, caused primarily by the Stockholm Protocol Regarding Developing Countries but which emerged prior to that, particularly in connection with Resolution No. 5122 adopted by the General Conference of Unesco at its 14th session in November 1966 and concerning Article XVII of the Universal Copyright Convention — a crisis that ended, though only by way of a "first act," with the signature at Paris, at the same period of time, of the revised texts of the two Conventions — a problem that arises, if not formally, at any rate as a prior condition for effecting a complex change smoothly, is that of the simplification of international copyright protection.

As is well known, in the course of the meetings of the "Ad Hoc Preparatory Committees," established

to draw up preliminary draft revisions of the two international Conventions and which both met in May 1970, though separately from one another, an attempt was made, on the basis of the so-called "Washington Recommendation" of October 1969, to establish organic and also formal links between the two Conventions, though limited at that time to problems concerning international relations between the so-called developing countries (which are increasingly difficult to characterize, particularly from the legal aspect) and any other country likewise a party to one or other of the Conventions. What was envisaged then was a joint protocol.

But this central idea, which was formulated by various participants and supported in particular by the Italian delegation, failed to secure adoption. And, as I have already had occasion to observe (see my study on the Paris meetings, already mentioned), that was the decisive turning-point in the course of events that was to lead to the separate Paris Acts of July 1971, disregarding in this way the "Washington Recommendation" with respect to differentiation or simplification. Further attempts, though more modest, were subsequently made, again by the Italian delegation, at the Paris Revision Conference of the Universal Convention, based on the idea of joint participation by Unesco and WIPO as already achieved for other international conventions in our field of interest, but they too were unsuccessful (see *Records of the Conference for Revision of the Universal Copyright Convention*, pp. 158 *et seq.*). And we now find ourselves faced with two convention texts, similar in substance, but that create a complex task for the jurists where their interpretation is concerned because they are different from the formal aspect, and the task is still more arduous if one tries to apply the methods used for interpreting domestic legislation.

In the course of the first session of Main Committee I, to which had been entrusted the task of revising the substantive provisions (Articles 1 to 20 of the Berne Convention), Mr. A. L. Kaminstein, Register of Copyrights of the United States of America, alternate delegate in his country's government delegation to the Stockholm Diplomatic Conference, expressed his government's appreciation at being able to participate, as an observer, in that Revision Conference of the Berne Convention, which was all the more interesting because of the fact that at that time work was under way in his country to revise its own copyright legislation; and he went on to express his own hope that "the Berne Convention and the Universal Copyright Convention could be, at a later date, combined in a single Convention" (*Records of the Stockholm Conference*, Vol. II, p. 839).

The present writer had the honor to collaborate closely and on a continuing basis in the establishment of the Universal Convention, as far back as 1947 and

1949, in the two first Committees of Experts convened by Unesco and later, in connection with the drafting of the Recommendations of the third Governmental Committee that met at Washington in October/November 1950, until 1951, in the work during the official phase when the texts of the draft Universal Convention and the annexed Protocol were drawn up; thereafter, I had the honor to be a member of the Italian government delegation to the 1952 Diplomatic Conference of Geneva. And I well realize that the creative effort made at that time hastened the long-awaited accession of the United States of America and, recently, of the USSR as well as numerous third-world countries to a multilateral instrument for the defense of authors' rights that is open to accession by any country. In paying a tribute to Unesco for this constructive work I wonder, nevertheless, if the moment has not come, now that the Universal Convention has achieved such a historic task, to initiate joint studies between WIPO and Unesco with a view to putting into better order the complicated edifice of international copyright protection, I would not say through merging of the two international instruments — the Berne Convention and the Universal Convention — but through better and more articulated coordination of the two. A careful comparative study in this regard, of an essentially legal-technical character, could not but seem promising in this changing world. Even though WIPO and Unesco have already for some time been in full collaboration in many sectors of common interest, such a single study of a general character could constitute the basis for future international instruments in our field of interest, which instruments would be unitarian while articulated and flexible, on the basis of new formulae.

Such a study of a general character, however, could perhaps not be limited to the field of the copy-

right conventions, but could extend to the field of the so-called neighboring rights, above all in order to prevent a proliferation of international conventions in respect of individual sectors of subject matter that are closely related, or at least to hold back such a trend. The two most recent international conventions — respectively for the protection of phonograms and concerning distribution satellites — are the result of such as procedure, which I consider pernicious. A revision of the Rome Convention with a view to solving by means of special agreements if necessary (and here I should like to recall the structure of the well-known Samaden Draft Agreements, which were linked to the Berne Convention) specific problems in the field of broadcasting and the recording of sounds, or sounds and images, could run counter to this perceptible need for unity and, above all, for simplification (see, in this connection, the document by the Italian Administration on the draft new convention on phonograms and my statements, in the name of the Italian delegation, *Acts of the International Conference of States for the protection of phonograms*, WIPO and Unesco, Geneva and Paris, 1975, pp. 186-187 and 64 respectively).

I shall end here, however, realizing that, in commenting on this highly commendable book by three eminent French jurists, I have spent too much time on my own personal reflections on the topic that I could characterize as follows: the international conventions on rights in intellectual works and in auxiliary contributions related to their performance or their technical or industrial production and to their dissemination to the public.

(WIPO Translation)

Valerio De Sanctis

Calendar

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible changes.)

1977

- May 2 to 6 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)**
- May 4 to 13 (Geneva) — Nice Union — Diplomatic Conference on the Revision of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks**
- May 11 to 13 (Geneva) — Paris Union — Ad hoc Coordinating Committee for Technical Activities**
- May 16 to 27 (Moscow) — International Patent Classification (IPC) — Working Group IV**
- May 23 to 27 (Rabat) — Development Cooperation — Seminar on Copyright intended for Arab Countries**
Note: Meeting convened jointly with Unesco
- June 1 to 3 (Geneva) — Paris Union — Advisory Group on Computer Software**
- June 6 to 17 (Paris) — International Patent Classification (IPC) — Working Group I**
- June 13 to 17 (Paris) — Berne Union — Working Group on Cable Television**
Note: Meeting convened jointly with Unesco
- June 20 to 24 (Geneva) — Development Cooperation — Working Group on the Model Law for Developing Countries on Inventions and Know-How**
- June 20 to July 1 (Washington) — International Patent Classification (IPC) — Working Group II**
- June 27 to July 1 (Geneva) — Nice Union — Preparatory Working Group on the Revision of the Classification**
- June 29 to July 8 (Geneva) — Paris Union — Preparatory Intergovernmental Committee on the Revision of the Paris Convention**
- September 21 to 23 (Geneva) — ICIREPAT — Plenary Committee**
- September 26 to October 4 (Geneva) — WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assembly and Committee of Directors of the Madrid Union**
- October 10 to 18 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees**
- October 17 to 28 (London) — International Patent Classification (IPC) — Working Group III**
- October 24 to 28 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)**
- October 24 to November 2 (Geneva) — Nice Union — Temporary Working Group on the Alphabetical List of Goods and Services**
- November 7 to 11 (Geneva) — Development Cooperation — Working Group on the Model Law for Developing Countries on Trademarks**
- November 7 to 11 (Paris) — ICIREPAT — Technical Committee for Standardization (TCST)**
- November 14 to 21 (Geneva) — International Patent Classification (IPC) — Steering Committee**
- November 14 to 25 (Geneva) — Paris Union — Preparatory Intergovernmental Committee on the Revision of the Paris Convention**
- November 22 to 25 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- November 28 to December 6 (Paris) — Berne Union — Executive Committee — Extraordinary Session**
- December 7 to 9 (Geneva) — International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations — Intergovernmental Committee — Ordinary Session (organized jointly with ILO and Unesco)**
- December 8 and 9 (Geneva) — Berne Union — Working Group on the Rationalization of the Publication of Laws and Treaties in the Fields of Copyright and Neighboring Rights**

1978

- February 15 to 24 (Paris) Berne Union — Committee of Governmental Experts on Double Taxation of Copyright Royalties**
Note: Meeting convened jointly with Unesco
- March 6 to 10 (Geneva) — Permanent Program — Working Group on Technological Information derived from Patent Documentation**
- March 13 to 15 and 17 (Geneva) — Permanent Program — Permanent Committee for Development Cooperation Related to Industrial Property**
- March 16, 17 and 20 (Geneva) — Permanent Program — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights**
- September 26 to October 2 (Geneva) — WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions**

1979

September 24 to October 2 (Geneva) — WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union

UPOV Meetings in 1977

Council: December 6 to 9

Consultative Committee: December 5 and 9

Technical Steering Committee: May 16 to 18; November 15 to 17

Committee of Experts on the International Cooperation in Examination: May 17

Committee of Experts on the Interpretation and Revision of the Convention: September 20 to 23

Working Group on Variety Denominations: in the time between September 20 to 23

Note: All the above meetings will take place in Geneva at the headquarters of UPOV

Technical Working Party for Fruit Crops: May 10 to 12 (Madrid - Spain)

Technical Working Party for Agricultural Crops: May 24 to 26 (Hanover - Federal Republic of Germany)

Technical Working Party for Ornamental Plants: June 7 to 9 (Wageningen - Netherlands)

Technical Working Party for Forest Trees: June 14 to 16 (Orleans - France)

Technical Working Party for Vegetables: September 6 to 8 (Aarslev - Denmark)

Meetings of Other International Organizations Concerned with Intellectual Property**1977**

May 1 to 4 (Amsterdam) — Union of European Patent Attorneys — Congress and General Assembly

May 4 to 6 (New York) — International Confederation of Societies of Authors and Composers — Legal and Legislation Committee

May 13 and 14 (Munich) — International Federation of Inventors' Associations — Annual Meeting

May 16 and 17 (Paris) — International Confederation of Societies of Authors and Composers — International Meeting on the Rights of Authors of Plastic and Graphic Arts

May 16 to 18 (Munich) — Deutsche Gesellschaft für Dokumentation — International Symposium on Patent Information and Documentation (organized in cooperation with WIPO and the German Patent Office)

May 23 to 25 (Dublin) — European Space Agency/European Broadcasting Union — Symposium on Direct Satellite Broadcasting

May 23 to 27 (Rio de Janeiro) — Inter-American Association of Industrial Property — Congress

September 8 and 9 (Antwerp) — International Literary and Artistic Association — Working Session and Executive Committee

September 18 to 21 (Edinburgh) — International League Against Unfair Competition — Working Session

October 25 to 27 (Belgrade) — Council of the Professional Photographers of Europe (EUROPHOT) — Congress

November 28 to December 6 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Intergovernmental Copyright Committee established by the Universal Copyright Convention (as revised at Paris in 1971)

1978

May 8 to 12 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television

May 12 to 20 (Munich) — International Association for the Protection of Industrial Property — Congress

May 29 to June 3 (Paris) — International Literary and Artistic Association — Congress

October 1 to 7 (Santiago de Compostela) — International Federation of Patent Agents — Congress