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Copyright

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Monthly Review of the
World Intellectual Property Organization (WIPO)

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World Intellectual Property Organization

WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights

Permanent Committee

Second Session

(Geneva, March 16 to 20, 1978)

Note *

The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (hereinafter referred to as the Permanent Committee) held its second session in Geneva from March 16 to 20, 1978. The list of participants appears at the end of this Note.

The session was opened by Mr. Ndéné Ndiaye (Senegal), the outgoing Chairman, who expressed satisfaction at the considerable amount of work done since the last meeting; he specifically referred to the importance of the training program realized by the International Bureau of WIPO and to the sizeable increase in the number of fellowships being awarded.

Mr. G.S. Edwin (India) was unanimously elected Chairman of the session and Mr. M.B. Keelson (Ghana) and Mrs. M. Reinsma (Netherlands) as Vice-Chairmen.

The following questions, which were on the agenda of the Permanent Committee, were examined on the basis of documents prepared by the International Bureau.

Membership of the Permanent Committee

At the time of its second session the Permanent Committee had 42 member States: Australia, Austria, Brazil, Bulgaria, Cameroon, Canada, Chile, Congo, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, India, Israel, Italy, Ivory Coast, Kenya, Mali, Mauritius, Mexico, Morocco, Netherlands, Niger, Norway, Pakistan, Poland, Portugal, Romania, Senegal, Spain, Sudan, Surinam, Sweden, Switzerland, United Kingdom, United States of America, Upper Volta.

State of Accessions to and Ratifications of the Conventions on Copyright and Neighboring Rights

The Permanent Committee noted that, as on the date of its meeting, 71 States (more than half of these are developing countries) were party to the Berne Convention, the Central African Empire and Costa Rica having acceded to its Paris Act since the last meeting of the Committee. Niger had since made a declaration that it would avail itself of the special provisions in favor of developing countries contained in the Appendix to the said Act.

The Permanent Committee noted that a number of countries such as Czechoslovakia, Ecuador, India, Israel, Italy and Portugal were considering acceding to the Paris Act of the Berne Convention in its entirety, and that in some countries amending legislations were already under way for the purpose. The Permanent Committee also noted with particular interest that the Soviet Union would apply very shortly the special provisions contained in the 1971 text of the Universal Copyright Convention in favor of developing countries; these provisions are almost identical with the Appendix of the Paris Act of the Berne Convention.

As regards the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), the Permanent Committee noted that 20 States were party to the Convention, Uruguay having recently acceded thereto. Of these more than half are developing countries.

The Committee noted that Norway was about to accede to the Rome Convention; and that some other countries, such as India and Israel, are considering accession to it, the necessary amendment of their legislation for the purpose being processed.

The Committee also noted that in Iraq a national committee was examining a number of Conventions administered by WIPO, and that such interest would be reflected in the recommendations which the said committee would adopt.

* This Note has been prepared by the International Bureau.

As for the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention), the Permanent Committee noted with satisfaction its increasing membership, and that 28 States were party to this Convention of whom almost half are developing countries. It also noted that Norway would soon be ratifying the Phonograms Convention, and that other countries, such as Portugal, are planning legislation against unauthorized duplication of phonograms.

Finally, in regard to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention), the Permanent Committee noted the current acceptance by four States of this Convention which has not yet entered into force. It noted, however, that Germany (Federal Republic of) and India were considering accession to this Convention; the fifth adherence would bring the Convention into force.

Certain Aspects of Development Cooperation

The Permanent Committee discussed, *inter alia*, problems of advice and assistance in legislation and in establishing or strengthening the national or regional institutions concerning copyright and neighboring rights, as also practical problems related to copyright and neighboring rights in securing access to and national publication and dissemination of works of foreign origin, especially for educational, instructional or scientific purposes, and the question of support of national authors and performers through effective copyright and neighboring rights protection.

The Permanent Committee noted that a number of delegations, both from developing and developed countries, had stressed the importance of the need to examine the question of facilitating access to protected works, including implementation of the specific provisions in favor of developing countries as contained in the Paris 1971 texts of the Copyright Conventions; it urged that the joint WIPO/Unesco questionnaire envisaged for the purpose at the last session of the Copyright Committees in Paris in November/December 1977 should be issued as soon as possible in order to elicit not only the legal but also the practical difficulties in the implementation of the 1971 texts; early issuance of the joint questionnaire would enable Governments to communicate their reactions well in time for an overall in-depth study by the proposed joint WIPO/Unesco working group scheduled for December 1978.

The Permanent Committee took note of the information given by a certain number of delegations concerning several measures taken in their countries in order to promote national creativity through effective implementation of protection offered by copyright

and neighboring rights regulations, and creation of appropriate infrastructure at the national level for support and assistance to authors and performers.

The Permanent Committee noted the progress of the studies being undertaken by the International Bureau concerning support of national authors and performers. Some delegations asked for extension of time for collecting and furnishing detailed data in response to an inquiry in this connection.

The Secretariat declared that all the proposals submitted have been noted and, regarding a study to be undertaken concerning the administrative structures relating to copyright, this will be included as far as possible in the next triennial program of WIPO.

During the discussion regarding translation of the copyright model law, certain delegations expressed satisfaction at the publication of the copyright model law in Portuguese.

As for the recently published WIPO Guide to the Berne Convention, most of the delegations expressed their satisfaction with this very useful publication established by Mr. Claude Masouyé, Director of the Copyright and Public Information Department; they felt that the Guide would prove to be a useful means of assistance to developing countries and was also suitable for the teaching of copyright. Certain delegations, noting WIPO's presently envisaged program of publishing the Guide in English, French, Spanish and Arabic, offered their help in translating and establishing a Portuguese version of the Guide, while the delegation of the Federal Republic of Germany inquired regarding the translation rights in respect of the Guide. It was clarified that, while WIPO had copyright in this publication, the International Bureau would be pleased to cooperate with interested Governments in the establishing of translations of the said Guide.

Training in Copyright and Neighboring Rights (Fellowships)

Most of the delegations expressed their appreciation of the efforts of the International Bureau in organizing the fellowships program, including more particularly the notable increase in the number of fellowships granted each year, and thanked the countries which had given a special contribution to that program.

The Permanent Committee took note of the suggestions and the different training possibilities offered by various delegations and observers and approved the measures proposed by the Secretariat with a view to improving the administration of the program.

Concerning WIPO's general introductory training courses, the delegation of Hungary offered to organize such a course in Budapest in cooperation with WIPO in the fall of 1979 and possibly also regularly

thereafter every two or three years. The delegation of Sweden informed the Committee that the Swedish International Development Authority (SIDA) was now considering how best it could contribute to the WIPO training program in the future. The Director General of WIPO thanked these delegations and declared the International Bureau's readiness to discuss details of these proposals.

A number of delegations emphasized the need in developing countries for lawyers specializing in copyright law and the importance of teaching copyright at universities. Several delegations requested the assistance of WIPO to the universities in their countries in this matter, and also stressed the necessity of helping to organize teaching of copyright by their own university professors. The delegation of India expressed its thanks to WIPO for having already organized a study program for an Indian professor at different universities and copyright institutions; the delegation of the Federal Republic of Germany informed the Committee that the Max Planck Institute in Munich offered fellowships for research professors.

The Secretariat expressed its gratitude to all countries which had accepted to receive WIPO trainees during 1977, as also to the non-governmental organizations which had participated in the symposium and in the organization of the training. It further assured the delegations that the International Bureau shall continue to consider award of fellowships to all candidates within the limits set by budgetary possibilities, also taking into consideration the new contributions offered by more than one delegation. Besides, it would endeavor to provide, commencing with the current year, assistance to all countries that have requested for it.

Regional Meetings and Seminars

Several delegations and observers expressed satisfaction that the Secretariats of WIPO, ILO and Unesco have jointly held Seminars also concerning the rights of performers, producers of phonograms and broadcasting organizations covered by the Rome Convention; they emphasized the importance of holding regional seminars also from the point of view of their mobilizing effect. The observer from the Arab Educational, Cultural and Scientific Organization (ALECSO) informed the Permanent Committee that his Organization had decided to convene regional copyright meetings in 1978 and 1979 and invited WIPO and Unesco to cooperate in these meetings.

The Secretariat took note of suggestions by different delegates that written reports and other documentation relating to the work at regional seminars should be circulated also to countries which might not have been able to participate in the Seminar; and that radio networks in developing countries might be utilized to broadcast, at a specified time, the gist of

deliberations at such seminars or to hold discussions with a view to making copyright conventions better known.

Cooperation among Developing Countries

Several delegations emphasized the importance of exchanging experiences and of mutual assistance among the developing countries themselves and suggested maintaining such an item on the agenda of the Permanent Committee. Such forms of regional cooperation amongst developing countries would be more effective and economical. The Permanent Committee noted the offers of the delegations of Senegal and India to receive trainees from other developing countries, as well as the suggestions of several delegates regarding establishment of regional information systems according to language areas.

The Director General of WIPO welcomed the encouraging new ideas concerning this aspect of development cooperation and confirmed that WIPO would continue developing this part of the Permanent Program in close cooperation, as in the past, with regional organizations. Progress in this field would be regularly reviewed by maintaining this item as a regular feature on the agenda. He thanked Mexico which had received trainees the last two years, and also those countries which offered to do so.

Glossary of Terms of the Law of Copyright and Neighboring Rights

Concerning the preliminary draft of the Glossary submitted to the Permanent Committee, the Director General of WIPO referred to the decisions made at the meeting of the Permanent Committee for Development Cooperation Related to Industrial Property regarding a similar item and assured the Committee that these decisions shall apply to the Glossary of terms of copyright and neighboring rights accordingly. The Glossary would become richer, both as far as the terms explained, and the references to legislative texts are concerned.

The Permanent Committee noted a number of suggestions concerning the scope of the Glossary, editorial aspects thereof and the method of explanation of the terms selected. It noted with approval the intention of the International Bureau to expand and improve the existing draft, taking into account the comments by various delegations.

List of Participants

I. Member States

Austria: R. Dittrich. **Brazil:** A. G. Bahadian. **Canada:** B. Gillies. **Chile:** P. Oyarce. **Czechoslovakia:** J. Kanka; A. Bujňák; M. Jelinek. **Denmark:** B. V. Linstow. **Finland:** R. Salmi. **France:** A. Kerever; J. Buffin. **German Democratic Republic:**

K. Götz; C. Micheel. **Germany (Federal Republic of)**: E. Steup. **Ghana**: M. B. Keelson; E. B. Odoi Anim. **Hungary**: M. Ficsor; A. Benárd. **India**: G. S. Edwin. **Israel**: M. Gabay. **Italy**: G. Fonzi; G. Catalini. **Ivory Coast**: L. Ouattara; A. Ouattara. **Mali**: B. Touré; N. Traore. **Mexico**: J. M. Terán Contreras; I. Otero Muñoz; M. F. Ize de Charrín. **Morocco**: A. Kandil. **Netherlands**: J. Verhoeve; M. Reinsma; F. P. R. Van Nouhuys. **Norway**: T. Saebø. **Pakistan**: A. A. Hashmi. **Poland**: E. M. Szelchauz. **Portugal**: A. M. Pereira. **Senegal**: N. Ndiaye. **Spain**: I. Rey-Stolle; M. Corral Beltrán. **Sudan**: A. El Tom Mansour. **Surinam**: P. J. Boerleider. **Sweden**: H. Olsson. **Switzerland**: J.-L. Marro; J.-M. Salamolard. **United Kingdom**:* A. J. Needs; A. Holt. **United States of America**: H. J. Winter; J. Baumgarten; J. M. Lightman. **Upper Volta**: M. Kafando.

II. Observer States

Algeria: A. Bencheneb. **Argentina**: J. F. Gomensoro. **Ecuador**: E. Avellán Ferres. **Holy See**: O. Rouillet. **Iran**: M. H. Karimi; S.-F. Abbas. **Iraq**: G. I. Ayoub; Y. M. Al-Khanaty; A. S. Ali. **Libyan Arab Jamahiriya**: A. Embark. **Nicaragua**: G. Cajina. **Republic of Korea**: S. C. Cho. **Thailand**: B. Bunnag. **Togo**: N. Agblemagnon. **Tunisia**: M. Naboultane. **Uganda**: J. H. Ntagoba; B. O. Odoch-Jato. **Soviet Union**: E. Gavrilov. **Venezuela**: G. Perozo Pinango; J. S. García Segura; J. Gómez Saenz.

III. Intergovernmental Organizations

International Labour Organisation (ILO): S. C. Cornwell. **United Nations Educational, Scientific and Cultural Organization (UNESCO)**: A. Amri. **Arab Educational, Cultural and Scientific Organization (ALECSO)**: A. F. Sorour.

IV. International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé. **Inter-American Copyright Institute (IIDA)**: P. Paes. **International Bureau of the Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM)**: J.-A. Ziegler. **International Confederation of Societies of Authors and Composers (CISAC)**: J.-A. Ziegler. **International Copyright Society (INTERGU)**: G. Halla. **International Federation for Documentation (FID)**: H. Arntz. **International Federation of Actors (FIA)**: R. Leuzinger. **International Federation of Associations of Film Distributors (FIAD)**: G. Grégoire. **International Federation of Musicians (FIM)**: R. Leuzinger; S. Piraccini. **International Federation of Newspaper Publishers (FIEJ)**: G. E. Kellens. **International Federation of Producers of Phonograms and Videograms (IFPI)**: G. Davies; E. Thompson. **International Literary and Artistic Association (ALAI)**: J. A. Koutchoumow. **International Publishers Association (IPA)**: J. A. Koutchoumow.

V. Officers

Chairman: G. S. Edwin (India). *Vice-Chairmen*: M. B. Keelson (Ghana); M. Reinsma (Netherlands). *Secretary*: S. Ali-khan (WIPO).

VI. International Bureau of WIPO

A. Bogsch (*Director General*); K.-L. Liguier-Laubhouet (*Deputy Director General*); C. Masouyé (*Director, Copyright and Public Information Department*); S. Alikhan (*Director, Copyright Division*); G. Boytha (*Head, Section for Copyright Development Cooperation Projects*).

Conventions Administered by WIPO

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

NORWAY

Accession to the Convention

The Secretary-General of the United Nations, in a letter dated April 26, 1978, informed the Director General of the World Intellectual Property Organization that the Government of the Kingdom of Norway deposited, on April 10, 1978, its instrument of accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, done at Rome on October 26, 1961.

The instrument of accession contains the following reservations:

(a) Pursuant to Article 16, paragraph 1, item (a)(ii), reservation is made to the effect that Article 12 shall not apply in respect of use other than for the purpose of economic gain.

(b) Pursuant to Article 16, paragraph 1, item (a)(iii), reservation is made to the effect that Article 12 shall not be applicable if the producer is not a national of another Contracting State.

(c) Pursuant to Article 16, paragraph 1, item (a)(iv), reservation is made to the effect that the extent and duration of the protection provided for under Article 12 for phonograms which are produced by a national in another Contracting State shall not be more comprehensive than the protection granted by that State to phonograms first produced by a Norwegian national.

(d) Pursuant to Article 6, paragraph 2, reservation is made to the effect that broadcasts are only protected if the headquarters of the broadcasting organisation is situated in another Contracting State, and the broadcast is transmitted from a transmitter in the same Contracting State.

Upon depositing the instrument of accession, the Government of Norway made the following declaration:

The Norwegian Act of 14 December 1956 concerning a Levy on the Public Presentation of Recordings of Artists'

Performances, etc., establishes rules for the disbursement of that levy to producers and performers of phonograms.

A portion of the annual revenue from this levy devolves, as of rights, to producers of phonograms as a group, without distinction as to nationality, in remuneration for the public use of phonograms.

Under the terms of the Act, contributions from the levy may be made to Norwegian performing artists and their survivors on the basis of individual needs. This benevolent arrangement falls entirely outside the scope of the Convention.

The regime established by the said Act, being fully consistent with the requirements of the Convention, will be maintained.

The Convention will enter into force, for Norway, three months after the date of deposit of the instrument of accession, that is, on July 10, 1978.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

NORWAY

Ratification of the Convention

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms* that, according to the notification received from the Secretary-General of the United Nations, the Government of the Kingdom of Norway deposited, on April 10, 1978, its instrument of ratification of the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to Norway, three months after the date of the notification given by the Director General of WIPO, that is, on August 1, 1978.

* Phonograms Notification No. 34, of May 1, 1978.

General Studies

Some Aspects of the Avoidance of the Double Taxation of Copyright Royalties

Péter GYERTYÁNFY *

Calendar

WIPO Meetings

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

1978

- June 12 to 16 (Geneva) — Development Cooperation (Industrial Property) — Working Group on the Model Law for Developing Countries on Marks and Trade Names**
- June 19 to 30 (Paris) — Berne Union — Committee of Governmental Experts on Double Taxation of Copyright Royalties (convened jointly with Unesco)**
- June 19 to 23 (Geneva) — Revision of the Paris Convention — Working Group on Questions of Special Interest to Developing Countries**
- June 19 to 23 (Geneva) — Revision of the Paris Convention — Working Group on Inventors' Certificates**
- June 26 to 30 (Geneva) — Revision of the Paris Convention — Preparatory Intergovernmental Committee**
- June 26 to July 7 (Tokyo) — International Patent Classification (IPC) — Steering Committee**
- July 3 to 11 (Geneva) — Berne Union, Universal Convention and Rome Convention — Subcommittees of the Intergovernmental Committees on Cable Television (convened jointly with ILO and Unesco)**
- July 19 to 21 (Geneva) — Development Cooperation (Industrial Property) — Working Group on Promotion of Domestic Inventive and Innovative Capacity**
- September 4 to 8 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- September 13 to 15 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 13 to 22 (Paris) — Berne Union, Universal Convention and Rome Convention — Subcommittees of the Intergovernmental Committees on Videocassettes (convened jointly with ILO and Unesco)**
- September 18 and 19 (Geneva) — ICIREPAT — Plenary Committee**
- September 19 to 22 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation**
- September 25 to October 3 (Geneva) — Governing Bodies (WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly and Conference of Representatives of the Hague Union and Assembly of the International Union PCT)**
- September 27 to 29 (Geneva) — International Patent Classification (IPC) — Ad Hoc Working Group on the Revision of the Guide**
- October 2 to 6 (Geneva) — International Patent Classification (IPC) — Working Group I**
- October 23 to 27 (Hull, Canada) — ICIREPAT — Technical Committee for Standardization (TCST)**
- October 23 to 27 (Geneva) — Nice Union — Preparatory Working Group on International Classification**
- October 23 to 27 (Geneva) — International Patent Classification (IPC) — Working Group IV**
- November 13 to 17 (Geneva) — International Patent Classification (IPC) — Working Group II**
- December 4 to 8 (Geneva) — Development Cooperation (Industrial Property) — Working Group on the Model Law for Developing Countries on Marks and Trade Names**
- December 4 to 8 (Geneva) — International Patent Classification (IPC) — Working Group III**
- December 4 to 8 (Paris) — Berne Union and Universal Convention — Working Group on questions concerning access to protected works for developing countries, including the implementation of the 1971 revised texts of the Berne Convention and of the Universal Convention (tentative title) (convened jointly with Unesco)**
- December 17 to 22 (New Delhi) — Development Cooperation (Copyright) — Copyright Seminar (convened jointly with Unesco)**

1979

January 8 to 12 (Geneva) — International Patent Classification (IPC) — Committee of Experts

January 29 to February 2 (Geneva) — Rome Convention — Subcommittee of the Intergovernmental Committee on the Administration of Rights under the Rome Convention (convened jointly with ILO and Unesco)

September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT 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

1978

June 6 to 8 (Hanover) — Technical Working Party for Vegetables

June 20 to 22 (Paris) — Technical Working Party for Ornamental Plants

September 5 to 7 (Florence) — Technical Working Party for Fruit Crops

September 11 to 15 (Geneva) — Ad Hoc Committee on the Revision of the UPOV Convention

September 19 to 21 (Melle, Belgium) — Technical Working Party for Forest Trees

October 9 to 23 (Geneva) — Diplomatic Conference on the Revision of the UPOV Convention

November 13 to 15 (Geneva) — Technical Committee

November 16 and 17 (Geneva) — Administrative and Legal Committee

December 5 and 8 (Geneva) — Consultative Committee

December 6 to 8 (Geneva) — Council

Other Meetings in the Field of Copyright and/or Neighboring Rights

1978**Non-Governmental Organizations**

International Confederation of Societies of Authors and Composers (CISAC)

Legal and Legislation Committee — June 28 and 29 (Copenhagen)

Congress — September 25 to 29 (Toronto and Montreal)

International Federation of Actors (FIA)

Executive Committee — September 27 to 29 (Iceland)

International Writers Guild (IWG)

Congress — October 10 to 13 (Mannheim)

1979

International Federation of Musicians (FIM)

Symposium on the International Protection of Performers and of their Rights — January 10 to 12 (Geneva)