

Published monthly
Annual subscription:
Sw.fr. 100.—
Each monthly issue:
Sw.fr. 10.—

Copyright

14th year - No. 10
October 1978

Monthly Review of the
World Intellectual Property Organization (WIPO)

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World Intellectual Property Organization

JAMAICA

Accession to the WIPO Convention

The Government of Jamaica deposited, on September 25, 1978, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with

respect to Jamaica, three months after the date of deposit of its instrument of accession, that is, on December 25, 1978.

WIPO Notification No. 101, of September 26, 1978.

Berne Union

Third Committee of Governmental Experts on the Double Taxation of Copyright Royalties Remitted from One Country to Another

(Paris, June 19 to 30, 1978)

Report
adopted by the Committee

I. Introduction, Participants

1. The Third Committee of Governmental Experts on the Double Taxation of Copyright Royalties remitted from one country to another (hereinafter referred to as "the Committee") met at Unesco House from June 19 to 30, 1978.

2. It was convened jointly by the Director-General of Unesco and the Director General of WIPO, in pursuance of resolution 6.123 adopted by the General Conference of Unesco at its nineteenth session and the decision taken by the Executive Board of Unesco at its 102nd session (decision 5.6.1), and of the decisions approved by the governing bodies of WIPO at their September 1977 sessions, respectively.

3. A total of 49 States sent experts to the meeting. Observers from one State, three intergovernmental organizations and ten international non-governmental organizations also attended the meeting. The list of participants is contained in Annex C to this report.

II. Organization of the Meeting

4. The secretariat of the Committee had prepared documentation for the participants comprising a preliminary draft multilateral agreement for the elimination of double taxation of copyright royalties and a preliminary draft protocol annexed to that agreement, a preliminary draft model bilateral convention on this subject, commentaries on these preliminary drafts and the observations thereon formulated by governments and international non-governmental organizations (documents UNESCO/WIPO/DT/III/3, 4, 5, 6, 7, 7 Add., 8 and 8 Add.).

5. The working languages of the meeting were Arabic, English, French, Russian and Spanish.

III. Opening of the Meeting

6. The meeting was opened by Mr. J. Rigaud, Assistant Director-General of Unesco, who, on behalf of the Director-General, Mr. Amadou-Mahtar M'Bow, welcomed the participants and wished them success

in their work. Mr. C. Masouyé, Director of the Copyright and Information Department of WIPO, endorsed the foregoing statement on behalf of the Director General of his Organization, Dr. Arpad Bogsch.

IV. Election of the Chairman and Vice-Chairmen Adoption of the Rules of Procedure and the Agenda

Election of the Chairman

7. The Committee unanimously elected as Chairman Mr. Mihály Ficsor, Director-General of the Hungarian Bureau for the Protection of Copyright and Head of the delegation of Hungary.

Adoption of the Rules of Procedure

8. The Committee, after making an amendment, proposed by the delegation of Algeria, to Rule 3 of the Provisional Rules of Procedure, as contained in document UNESCO/WIPO/DT/III/2, according to which the task of Rapporteur would be entrusted to the secretariat of the Committee, adopted its Rules of Procedure, deciding that the number of its Vice-Chairmen should be five.

Election of Vice-Chairmen

9. The following were unanimously elected:

Don Joaquin Tena Arregui, Abogado del Estado (Spain)
Mr. Hekmat Abdul Karim Haris, Ministry of Finance (Iraq)
Dr. Tadeo Araki, Permanent Delegate of Japan to Unesco
Mrs. N. Tau, University Librarian, National Library of Lesotho
Mr. Ignacio Otero Muñoz, Director General of International Affairs, Department of Copyright, Secretariat of Public Education (Mexico).

Adoption of the agenda

10. Following the change made in the Rules of Procedure, item 4 of the agenda was amended accordingly, and document UNESCO/WIPO/DT/III/1 was adopted.

V. Presentation of Preparatory Documentation

11. Professor Paul Marie Gaudemet of the Université de droit, d'économie et de sciences sociales de Paris II (France), who assisted the secretariat in preparing the documentation, presented it to the Committee.

VI. General Discussion

12. Following the statement made by Professor P. M. Gaudemet, a general discussion took place on the nature of the "multilateral instrument" referred to in the resolution of the Second Committee of Experts which met in 1976.

13. Some delegations considered that the term "instrument" could equally well cover a multilateral convention or an international recommendation, and they expressed their preference for the latter interpretation. In the opinion of those delegations, the most suitable means of avoiding cases of double taxation and of combating tax evasion consisted in a network of bilateral treaties of general scope. The delegations also raised the question of the relationship between a possible multilateral convention and the bilateral agreements in force; they wondered to what extent the latter would not need to be renegotiated in order to take account of the existence of a multilateral instrument specifically concerned with the regulation of copyright royalties.

14. Other delegations recalled the deliberations of the previous Committees and the compromise reached by the Committee that met in 1976. The object, according to these delegations, was to establish a multilateral convention restricted to general principles and accompanied, for its implementation, by a model bilateral agreement so as to govern, in the relations between the Contracting States, the measures taken to give practical effect to the principles contained in such a convention. For, in the opinion of these delegations, only a multilateral convention specifically concerned with copyright royalties could provide a means of avoiding or reducing any prejudice to the interests of authors whose works contribute to development and, by affording uniform measures to combat the double taxation of the said royalties, of improving the dissemination of such works.

15. In view of the importance of the definition to be given to the term "instrument", this discussion led some delegations to ask for explanations on the difference existing, from the legal standpoint, between an international recommendation and a multilateral convention.

16. The secretariat provided the answer to this question by pointing out that a convention involves an undertaking by the States party to it, whereas a recommendation has no binding force and leaves States free to give or not to give effect to the principles set forth therein.

17. In addition, the Committee considered whether copyright royalties could be taxed in the State of source only, in the State of residence only, or, again, in both of them, subject in the latter case, however, to avoidance of the double taxation thus created. The Committee also considered whether the tax reduction should benefit solely the author and his heirs or be extended to the author's successors-in-title.

18. Several delegations expressed the hope that the field of application of the proposed multilateral instrument would be confined to income tax.

19. The observers of the international non-governmental organizations representing authors recalled the hopes which the members of the profession placed in the adoption of effective means of combating and eliminating cases of double taxation of copyright royalties, which it was plain were highly prejudicial to the interest of authors whose works were disseminated throughout the world. They therefore ardently hoped that the multilateral convention which it was proposed to draw up would completely do away with that prejudice. One observer also stressed the advantage that would accrue to authors of works of plastic arts if royalties in respect of the "droit de suite" were included in the scope of the convention.

VII. Content and Nature of the Instruments

20. After this exchange of views, the Committee went on to examine, article by article, the preliminary draft of a multilateral instrument prepared by the secretariat. In the course of this examination, the delegations put forward observations of which account will be taken in the preparation of the commentaries that will be drafted on the completion of the Committee's work and that will elucidate the texts adopted by the latter.

21. Before considering the preliminary draft of a model bilateral instrument, several delegations requested that the Committee take a decision on the nature of the multilateral instrument which it had been entrusted with preparing. Other delegations thought it premature to deal with that question before the content of the instrument had been defined.

22. In view of this divergence of views, the Chairman proposed that a vote be taken on the question of what the legal nature of the instrument should be.

23. On a point of order raised by the delegation of the United Kingdom, the Committee voted on the expediency of taking such a vote at that stage in its work.

24. At the request of the delegations of the Libyan Arab Jamahiriya and Tunisia, a vote was taken by roll call.

25. Twenty-seven delegations (Algeria, Argentina, Brazil, Czechoslovakia, Democratic Yemen, Egypt, Ghana, Guatemala, Hungary, India, Iran, Iraq, Ivory Coast, Jordan, Lesotho, Libyan Arab Jamahiriya, Kuwait, Malaysia, Mexico, Morocco, Pakistan, Poland, Portugal, Saudi Arabia, Soviet Union, Spain, Tunisia) voted in favor of taking the vote in question immediately. Twelve delegations (Austria, Belgium, Canada, Denmark, France, Germany (Federal Republic of), Italy, Japan, Netherlands, Switzerland, United Kingdom, United States of America) voted against. There were no abstentions.

26. The Chairman then asked the Committee to take a roll call vote on whether the proposed instrument should take the form of a multilateral convention.

27. Twenty-seven delegations (Algeria, Argentina, Belgium, Brazil, Czechoslovakia, Democratic Yemen, Egypt, Ghana, Guatemala, Hungary, India, Iran, Iraq, Ivory Coast, Jordan, Lesotho, Libyan Arab Jamahiriya, Kuwait, Malaysia, Mexico, Morocco, Pakistan, Poland, Saudi Arabia, Soviet Union, Spain, Tunisia) voted in favor. Eight delegations (Austria, Canada, Germany (Federal Republic of), Italy, Japan, Netherlands, Switzerland, United States of America) voted against. Four delegations (Denmark, France, Portugal, United Kingdom) abstained.

28. The Committee then discussed the draft amendments submitted by a number of delegations and contained in documents UNESCO/WIPO/DT/III/DR. 1 to 26, it being understood that account would also be taken, in the preparation of the commentaries mentioned in paragraph 20 above and of the draft model bilateral convention, of the observations made during the discussion.

29. In the course of the discussion on the guiding principles for action against the double taxation of copyright royalties, several delegations proposed that the multilateral convention should include a provision whereby the contracting States would undertake to grant, in bilateral agreements which were satisfactory in other respects, preferential treatment in respect of copyright royalties.

30. Some delegations raised the question of what was meant by "preferential treatment," in particular what criteria of comparison would be used to define such treatment. They also pointed out that the Committee's task was to formulate measures designed to prevent the double taxation of copyright royalties, and that consideration of the principle that had been proposed appeared to be outside the Committee's terms of reference.

31. Following a motion proposed by the delegation of Mexico and seconded by the delegations of the United States of America and of Canada, a roll call vote was taken on this proposal.

32. Eight delegations (Argentina, Colombia, Ghana, India, Italy, Ivory Coast, Mexico, United States of America) voted in favor of inserting into the multilateral convention a provision along the lines suggested. Eighteen delegations (Austria, Belgium, Brazil, Canada, Egypt, Finland, France, Germany (Federal Republic of), Hungary, Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Soviet Union, Spain, Switzerland, Tunisia, United Kingdom) voted against the proposal. The delegation of Japan abstained.

33. Explaining its vote, the delegation of Egypt stated that, while in favor of granting preferential treatment in respect of copyright royalties, it had voted against the proposal because it considered that this matter went beyond the Committee's terms of reference.

34. At the close of the discussion, the observers from the international non-governmental organizations representing authors, while thanking delegations for the efforts they had made in an attempt to solve a problem which was vital to authors, nevertheless expressed their keen disappointment that, contrary to the latters' hopes, the text adopted was valid only as a declaration of principle, which contained no binding commitment on the part of States and was thus, contrary to the end sought, unlikely to produce any practical improvement in the present taxation situation of authors.

VIII. Adoption of the Texts

35. A drafting committee, consisting of the delegations of the following States: Argentina, Egypt, France, Ghana, India, Iraq, Japan, Soviet Union, Spain, Switzerland, together with the Chairman of the Committee, acting in an *ex officio* capacity, met under the latter's chairmanship to prepare a draft Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties and a draft Protocol annexed to that Convention.

36. On completion of its discussions, the Committee agreed on the texts of the draft Multilateral Convention and the draft Protocol contained in Annex A to this report, it being understood that, in regard to the final provisions, a draft wording would be prepared by the secretariat for submission to the International Conference of States.

37. During consideration of a draft resolution submitted by the Chairman (document UNESCO/WIPO/DT/III/10), the Committee had before it an amendment proposed by the delegation of Canada in document UNESCO/WIPO/DT/III/DR.27.

38. The delegation of the Soviet Union, considering that the proposed amendment called in question the decision already taken by the Committee as to the nature of the instrument envisaged, submitted that it was out of order.

39. Under Rule 10.1 of the Rules of Procedure the Chairman expressed himself of the same opinion.

40. As the delegation of Canada appealed against the decision of the Chairman, the ruling was immediately put to the vote in accordance with Rule 10.2 of the Rules of Procedure, and, on a proposal by the delegation of India seconded by the delegations of Hungary and Iraq, a vote was taken by roll call.

41. Twenty-six delegations supported the Chairman's ruling (Algeria, Argentina, Brazil, Cameroon, Colombia, Czechoslovakia, Egypt, France, Ghana, Guatemala, Hungary, India, Iran, Iraq, Ivory Coast, Japan, Jordan, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Pakistan, Poland, Soviet Union, Spain, Tunisia). Ten delegations voted against (Austria, Canada, Finland, Germany (Federal Republic of), Italy, Norway, Sweden, Switzerland, United Kingdom, United States of America). The delegation of Belgium abstained. The ruling by the Chairman accordingly prevailed.

42. The draft resolution submitted by the Chairman was subsequently adopted by the Committee, with some drafting changes. This resolution is contained in Annex B to this report.

43. After the usual exchange of courtesies the Chairman declared the meeting closed.

ANNEX A

Draft Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties

The Contracting States,

Considering that the double taxation of copyright royalties is prejudicial to the interests of authors and thus constitutes a serious impediment to the dissemination of works, which is one of the basic factors in the development of the culture, science and education of all peoples,

Believing that the encouraging results already achieved in the fight against double taxation, especially by means of national measures and of bilateral agreements, whose beneficial effects are generally recognized, can be improved by the conclusion of a multilateral convention specific to copyright royalties,

Being of the opinion that these problems must be solved while respecting the legitimate interests of States and particularly the needs specific to those where the widest possible access to works of the human mind is an essential condition to their continuing development in the fields of culture, science and education,

Seeking to find effective measures designed to avoid as far as possible or, failing this, to limit double taxation of copyright royalties,

Have agreed on the following provisions:

I. Definitions**ARTICLE I***Copyright Royalties*

1. For the purposes of this Convention and subject to the provisions of paragraphs 2 and 3 of this article, copyright royalties are payments of any kind made on the basis of the domestic copyright laws of the Contracting State in which the royalties arise, as a consideration for the use of, or the right to use, a copyright in a literary, artistic or scientific work, including such payments made in respect of legal or compulsory licenses or in respect of the "droit de suite."
2. This Convention shall not, however, be taken to cover royalties due in respect of the exploitation of cinematographic works or works produced by a process analogous to cinematography as defined in the domestic copyright laws of the Contracting State in which the royalties arise, when the said royalties are due to the producers of such works or their assignees or successors in title.
3. With the exception of payments made in respect of the "droit de suite" the following shall not be considered as copyright royalties for the purposes of this Convention: payments for the purchase, rental, loan or any other transfers of a right in the material base of a literary, artistic or scientific work, even if the amount of this payment is fixed in the light of the copyright royalties due or if the latter are determined, in whole or in part, by that of the said payment. When a right in the material base of work is transferred as an accessory to the transfer of the entitlement to use a copyright in the work, only the payments in return for this entitlement are copyright royalties for the purposes of this Convention.
4. In the case of payments made in respect of the "droit de suite" and in all cases of the transfer of a right in the material base of a work referred to in paragraph 3 and independently of the fact that the transfer in question is or is not free of charge, any payment made in settlement of or as reimbursement for an insurance premium, transport or warehousing costs, agent's commission or any other remuneration for a service, and any other expenses incurred, directly or indirectly, by the removal of the material base in question, including customs duties and other related taxes and special levies, shall not be a copyright royalty for the purposes of this Convention.

ARTICLE II*Beneficiary of Copyright Royalties*

For the purposes of this Convention, the "beneficiary" of copyright royalties is the beneficial owner thereof to whom all or a part of such royalties is paid, whether he collects them as author, or whether he collects them as heir or successor-in-title of the author, or as representative or agent of the author, his assignees or successors in title.

ARTICLE III*State of Residence of the Beneficiary*

1. For the purposes of this Convention, the State of which the beneficiary of the copyright royalties is a resident shall be deemed to be the State of residence of the beneficiary.
2. A person shall be deemed to be a resident of a State if he is liable to tax therein by reason of his domicile, residence, place of effective management or any other relevant criterion as agreed to in a bilateral agreement on double taxation of copyright royalties. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital he possesses there.

ARTICLE IV*State of Source of Royalties**Alternative A*

For the purposes of this Convention, a State shall be deemed to be the State of source of copyright royalties when such royalties are originally due as a result of the use of a literary, artistic or scientific work in that State.

Alternative B

For the purposes of this Convention, a State shall be deemed to be the State of source of copyright royalties when such royalties are originally due:

- (a) by that State or by a political or administrative subdivision or local authority of that State;
- (b) by a resident of that State, except where they result from an activity carried on by him in another State through an installation established therein; or
- (c) by a non-resident of that State, where they result from an activity carried on by him through an installation established therein.

II. Guidelines for Action Against Double Taxation of Copyright Royalties**ARTICLE V**

Any action against double taxation of copyright royalties shall respect the sovereignty of States in fiscal matters.

ARTICLE VI

The measures against double taxation of copyright royalties shall not give rise to any tax discrimination based on nationality, race, sex, language or religion.

ARTICLE VII

Copyright royalties may be taxed either by the State of source or by the State of residence or by both, provided, however, that in the latter case the double taxation thus created be avoided in accordance with the provisions of Article IX.

ARTICLE VIII

The competent authorities of the Contracting States shall exchange information in so far as it is necessary for the implementation of this Convention and is not incompatible with their domestic laws.

III. Implementation of the Guidelines for the Action against Double Taxation of Copyright Royalties**ARTICLE IX***Alternative A*

Each Contracting State, in accordance with its Constitution and the guidelines set out above, shall make every possible effort to adopt domestic measures to avoid double taxation where possible and, should it subsist, to eliminate it or, failing this, to reduce its effect by means of bilateral agreements. A model bilateral agreement relating to the avoidance of double taxation of copyright royalties and comprising several alternatives is annexed, by way of illustration, to this Convention. The Contracting States, while respecting the provisions of this Convention, may conclude bilateral agreements based on the norms that are most acceptable for them in each particular case.

Alternative B

Each Contracting State, in accordance with its Constitution and the guidelines set out above, undertakes, upon the entry into force of this Convention in respect of that State,

to adopt domestic measures to avoid double taxation where possible and, should it subsist, to eliminate it immediately or, failing this, to reduce its effect by means of bilateral agreements. A model bilateral agreement relating to the avoidance of double taxation of copyright royalties and comprising several alternatives is annexed, by way of illustration, to this Convention. The Contracting States, while respecting the provisions of this Convention, may conclude bilateral agreements based on the norms that are most acceptable for them in each particular case.

IV. Final Clauses

ARTICLE X

[Ratification, Acceptance, Accession]

ARTICLE XI

[Reservations]

ARTICLE XII

[Entry into Force]

ARTICLE XIII

[Termination]

ARTICLE XIV

[Languages of the Convention]

ARTICLE XV

[Interpretation]

ARTICLE XVI

[Settlement of Disputes]

Draft Protocol Annexed to the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties

The States party to the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties (hereinafter called "the Convention") that are party to this Protocol have accepted the following provisions:

1. The provisions of the Convention on copyright royalties apply also to the taxation of royalties paid to performers, producers of phonograms and broadcasting organizations in respect of rights related to copyright or "neighboring" rights, in so far as the latter royalties arise in a State party to this Protocol and their beneficiaries are residents of another State party to this Protocol.
2. [Entry into force.]

ANNEX B

Resolution

adopted by the Committee

The Third Committee of Governmental Experts on the Double Taxation of Copyright Royalties remitted from one country to another, convened jointly by Unesco and WIPO and meeting at Unesco Headquarters in Paris from June 19 to 30, 1978,

Having considered the preliminary draft multilateral and bilateral instruments and the commentaries thereon, prepared by the Secretariat of Unesco and the International Bureau of WIPO, pursuant to the resolution adopted by the Second Committee of Governmental Experts meeting in 1976,

1. Considers that the solution of the problems in question may be found in the adoption of a multilateral convention restricted to guidelines and accompanied by a model bilateral agreement, comprising several alternatives, so as to govern the measures taken to give practical effect to the principles contained in the said convention, in the relations between Contracting States;

2. Accepts the draft Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties which is annexed to the report of its deliberations;

3. Invites the Secretariat of Unesco and the International Bureau of WIPO to prepare, in the light of the Committee's discussions:

(i) a draft commentary explaining the draft multilateral convention;

- (ii) a draft model bilateral agreement;
- (iii) a draft commentary explaining this draft model bilateral agreement;
4. Considers that it has fully complied with its terms of reference;
5. Recommends that an International Conference of States be convened in 1979 by the Directors-General of Unesco and of WIPO with a view to the adoption of a multilateral convention on this subject, accompanied by a model bilateral agreement;
6. Consequently recommends that the competent organs of Unesco and WIPO take the necessary administrative and budgetary measures to enable this conference to be held;
7. Requests the Secretariat of Unesco and the International Bureau of WIPO, as part of the preparations for that conference:
 - (i) to submit the texts referred to in paragraphs 2 and 3 above to governments and to the intergovernmental and international non-governmental organizations concerned for their observations;
 - (ii) to communicate such observations to them as soon as possible after they have been received.

ANNEX C

Lists of Participants

I. Member States

Algeria: S. Abada; D. Sidi-Moussa. **Argentina:** M. A. Emery; C. A. Passalacqua; H. Della Costa. **Austria:** H. Berger. **Belgium:** G. L. de San; J. Coremans; G. Daumerie. **Brazil:** O. E. Pieta; J. O. dos Santos Pinto. **Cameroon:** R. Kouma; F. Foz'o Ekabe. **Canada:** R. A. Short; H. Rousseau. **Colombia:** F. N. Romero. **Congo:** A. Letembet-Ambily. **Czechoslovakia:** J. Koráb; J. Strnad. **Denmark:** J. Nørup-Nielsen; K. T. Lauritsen. **Democratic Yemen:** M. Medaiheg. **Egypt:** H. M. El-Baroudi. **Finland:** R. Meinander; H. Skurnik. **France:** A. Kerever; M. Rivière; J. Buffin; M. Astruc; F. Briquet. **German Democratic Republic:** R. Dill; P. Ebertz. **Germany (Federal Republic of):** E. Weber. **Ghana:** B. H. Blankson; E. B. Odoi Anim. **Guatemala:** A. Quiñones de Galvez. **Hungary:** M. Ficsor; P. Solt; G. Köszeghy; C. Mohi. **India:** J. C. Kalra; G. S. Edwin. **Iran:** H. H. Tehrani; M. Mansouri; M. Djalili; I. Porouchani. **Iraq:** H. A. K. Haris; S. A. Muttalib; A. Zaidan; R. A. J. Fayad; K. Kasim-Mohammed. **Italy:** I. Papini; N. Faiel Dattino; G. Fonzi; G. Somma; M. Fabiani. **Ivory Coast:** K. M. Koumoué; O. Adama. **Jamaica:** H. Fowler. **Japan:** T. Araki; S. Nagata; H. Gyoda. **Jordan:** N. Shequem. **Kuwait:** A. A. Hussain. **Lesotho:** N. Tau. **Libyan Arab Jamahiriya:** S. Bashir Asharif; F. Gebriel. **Malaysia:** S. Chim Chong. **Mexico:** I. Otero Muñoz; N. Pizarro Macias; F. Saviñon-Plaza; C. Gómez Barrera; J. L. Caballero; V. Blanco Labra. **Monaco:** C. C. Solamito; M. de la Panouse. **Morocco:** A. Bensouda. **Netherlands:** H. Hamaekers. **Norway:** A. Scheel. **Pakistan:** S. Saeed. **Poland:** J. Czabanski; H. Walkus-Gieralt. **Portugal:** J. M. L. Ritto; A. M. Pereira. **Republic of Korea:** D. Sang Chang. **Saudi Arabia:** H. Al-Khowaiter; M. S. El-Jamed. **Soviet Union:** V. N. Maslennikov; Y. Roudakov; G. Mojaev; V. Tchernichov. **Spain:** J. Tena Arregui; F. Zancada Peinado; F. Revuelta García. **Sweden:** Y. Hallin. **Switzerland:** G. Ménetrey. **Tunisia:** A. Saada; A. Abdallah; N. Moncef. **United Kingdom:** M. D. Whitear; B. Kent. **United States of America:** H. D. Rosenbloom; P. Lyons; L. Baumann.

II. Observers

(a) States

Holy See: L. Rousseau; M.-S. de Chalus.

(b) Intergovernmental Organizations

Arab Educational, Cultural and Scientific Organization (ALECSO): M. Ben-Amor. **Organization for Economic Co-operation and Development (OECD):** J.-L. Liénard. **Arab States Broadcasting Union (ASBU):** G. El Oteify.

(c) International Non-Governmental Organizations

European Broadcasting Union (EBU): G. Delaume. **International Association of Art (IAA):** J. Alexander-Sinclair. **International Confederation of Professional and Intellectual Workers (CITI):** G. Pouille. **International Confederation of Societies of Authors and Composers (CISAC):** J. Elissabide. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Producers of Phonograms and Videograms (IFPI):** P. Chesnais. **International Film and Television Council (IFTC):** A. Brisson; G. Grégoire; S. F. Gronich; S. Grégoire; P. H. Pisani. **International Literary and Artistic Association (ALAI):** H. Desbois; A. Françon. **International Publishers Association (IPA):** J. A. Koutchoumow. **International Writers Guild (IWG):** R. Fernay; E. Le Bris.

III. Consultant

P. M. Gaudemet.

IV. Secretariat**United Nations Educational, Scientific and Cultural Organization (UNESCO)**

J. Rigaud (*Assistant Director-General for Programme Support and General Administration*); M.-C. Dock (*Director, Copyright Division*); A. Amri (*Head, International Copyright Information Centre*); E. Guerassimov (*Lawyer, Copyright Division*).

World Intellectual Property Organization (WIPO)

C. Masouyé (*Director, Copyright and Public Information Department*).

Law Survey

*(Continued) **

Finland

1. Official title and date of current legislation

Law No. 404, relating to Copyright in Literary and Artistic Works, of July 8, 1961, as amended up to July 31, 1974.

Law No. 405 on Rights in Photographic Pictures, of July 8, 1961, as amended up to July 31, 1974.

2. Works eligible for protection

General eligibility criteria

A person who has created a literary or artistic work has copyright therein (Art. 1). The provisions of the Law apply to works of Finnish nationals or persons who have their permanent residence in Finland, and to works first published in Finland (Art. 63; Phot.: Art. 24).

No formalities are required.

Special categories of works

The protection of photographs is provided for in a special Law (see under 1 above), which contains detailed provisions on the rights granted and their limitation.

Translations and adaptations are protected; the right to control them is, however, subject to the copyright in the original work (Art. 4). Similarly, composite works are protected without restricting the rights in combined individual works (Art. 5).

Cinematographic works and works of artistic handicraft and industrial art are protected according to the general rules (Art. 1).

If a work has been registered as a design, copyright may nevertheless be claimed in it (Art. 10).

Catalogues, tables and similar compilations may not be reproduced without the consent of the producer during 10 years from the year of their publication (Art. 49).

The Law contains no specific provisions on type faces or works of folklore.

For the protection of phonograms and broadcasts, see under 9 below.

Works not protected

Copyright does not subsist in laws and decrees, or in decrees and declarations of public authorities and other public organizations (Art. 9).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the person who has treated a literary or artistic work (Art. 1). The person whose

name or generally known pseudonym or signature is stated in the usual manner is, in the absence of proof to the contrary, deemed to be the author (Art. 7).

If a work has two or more authors whose contributions do not constitute independent works, the copyright belongs to the authors jointly (Art. 6).

In the absence of an express agreement to the contrary, the right in a photographic picture made on commission belongs to the person who commissioned it (Phot.: Art. 15).

4. Rights granted

Economic rights

The economic rights include the exclusive right to control a work by producing copies thereof (including the recording of the work) and by making it available to the public. A work is made available to the public by public performance or by having copies of it placed on sale, leased, loaned or otherwise distributed or publicly exhibited (Art. 2).

A person who produces a photographic picture has the exclusive right to make copies thereof by photography, printing, drawing, or other process, or to exhibit it publicly (Phot.: Art. 1). The photographer enjoys also moral rights (Phot.: Art. 2).

Moral rights

The moral rights include, in addition to the right to claim authorship, the right to oppose any change or any making available to the public in a form or context prejudicial to the author's literary or artistic reputation, or to his individuality (Art. 3).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

A disseminated work may be reproduced in single copies for private use (Art. 11) or quoted, in accordance with proper usage, to the extent necessary for the purpose (Art. 14). The provision concerning private use (Art. 11) does not, however, include the right to engage others to reproduce useful articles or sculptures or to copy other artistic works by artistic reproduction, nor the right to build a work of architecture. It is also permitted to reproduce articles in newspapers and periodicals on current religious, political or economic topics (unless reproduction is expressly prohibited) as well as disseminated works of art in connection with the reporting of a news event (Art. 15), to make sound

* See the Introduction in the September issue, p. 213.

recordings of disseminated works for occasional use in educational activities (Art. 17), to reproduce published works in braille (Art. 18), to perform publicly published works (other than dramatic or cinematographic ones) at divine services and in connection with education (Art. 20) and to reproduce brief excerpts of works seen or heard in the course of current events (Art. 21).

Similar limitations are provided for with regard to various uses of photographic pictures (Phot.: Arts. 5 to 11, 13 and 14). Archives and libraries may make photographic reproductions of works for the purpose of their activities, under the conditions stated in Decree No. 441, of August 25, 1961 (Art. 12; Phot.: Art. 6). Radio and television organizations are permitted to make ephemeral recordings under certain conditions (Art. 22; Phot.: Art. 12).

Uses permitted against payment (legal license)

If a radio or television organization has an agreement with an organization representing a large number of Finnish authors in a certain field on the right to broadcast works, it may, subject to payment of compensation, broadcast also published works of authors not represented by the organization; this, however, does not apply to dramatic works nor to works for which the author has prohibited broadcast or where there is reason to assume that the author will oppose the broadcasting (Art. 22).

Disseminated works of art may be reproduced in connection with the text of a critical or learned treatise (Art. 14), and minor parts of a literary or musical work may be reproduced in a composite work (Art. 16); in both cases authors are entitled to remuneration under specified conditions.

6. Term of protection

The general term of protection is 50 years after the year in which the author died (Art. 43). Photographs are protected 25 years after the year in which they were published (Phot.: Art. 16).

7. Transfer of rights

Copyright may, subject to the author's moral rights, be transferred wholly or partially (Art. 27). The Law contains detailed provisions on public performance contracts (Art. 30), publishing contracts (Arts. 31 to 38) and film contracts (Arts. 39 and 40).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performances of literary or artistic works may not be recorded or broadcast without the consent of the performing artist (Art. 45). Sound recordings may not be copied without the consent of the producer (Art. 46). If a second recording is used in a radio or television broadcast, a compensation is payable both to the producer of the recording and to the performer whose performance is recorded (Art. 47).

Radio or television broadcasts may not be rebroadcast, recorded or made available to the public without the consent of the radio or television organization (Art. 48).

The term of protection for the 3 categories is 25 years. Limitations similar to those referred to under 5 above are applicable.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from January 28, 1963 (substantive provisions); Stockholm Act, 1967, as from September 15, 1970 (administrative provisions).

Universal Copyright Convention, 1952, as from April 16, 1963.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, with a declaration under Article 7(4), as from April 18, 1973.

12. Bilateral agreements

Agreement with the United States of America of January 1, 1929.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

France

1. Official title and date of current legislation

Law No. 57-298 on Literary and Artistic Property, of March 11, 1957.

2. Works eligible for protection

General eligibility criteria

The author enjoys an incorporeal property right in his work by the mere fact of its creation (Art. 1). The Law protects the rights in all intellectual works, regardless of their kind, form of expression, merit or purpose (Art. 2). A work is considered created, independent of any public divulgence, by the mere fact of the author's conception being realized, even incompletely (Art. 7).

No formalities are required.

Special categories of works

The authors of translations, adaptations, new versions or arrangements, and of anthologies or collections, enjoy the protection provided by the Law, without prejudice to the rights of the authors of the original works (Art. 4).

Photographic works of an artistic or documentary character and other works of the same character produced by processes analogous to photography, and works of applied art, are protected according to the general rules (Art. 3).

The Law contains no specific provisions on designs, type faces, typographical arrangement or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

The author of a work enjoys in that work an exclusive right effective against all persons. The existence or conclusion of a contract to make a work or an employment contract implies no exception to that enjoyment (Art. 1). In the absence of proof to the contrary, authorship belongs to the person or persons under whose name the work is disclosed (Art. 8).

A work of joint authorship is the joint property of the co-authors, who exercise their rights by common accord (Art. 10).

A composite work is the property of its author, without prejudice to the rights of the author of the pre-existing work (Art. 12).

In the absence of proof to the contrary, a collective work is the property of the natural person or legal entity under whose name it is disclosed (Art. 13).

Authorship of a cinematographic work belongs to the physical person or persons who brought about the intellectual creation thereof. In the absence of proof to the contrary, the co-authors are presumed to be: the authors of the script, the adaptation, the dialogue and the musical compositions especially composed for the work, and the director. When a cinematographic work is adapted from a pre-existing work which is still protected, the author of the original work is assimilated to the authors of the new work (Art. 14).

4. Rights granted

The author's right includes attributes of an intellectual and moral nature, as well as attributes of an economic nature (Art. 1).

Economic rights

The author enjoys the exclusive right to exploit the work in any form whatever and to take an economic profit therefrom (Art. 21). The right of exploitation includes the right of performance (that is, direct communication to the public, especially by means of public recitation, musical performance, dramatic performance, public presentation, dissemination by any method, public projection, transmission of a broadcast work) and the right of reproduction (that is, the material fixation of the work by all methods that permit of indirect communication to the public) (Arts. 26 to 28).

Moral rights

The moral rights of the author include the right to respect for his name, his authorship and his work. This right is attached to his person and is inalienable and imprescriptible (Art. 6). The author alone has the right to divulge his work (Art. 19). He also enjoys the right to correct and retract, which he may exercise on the condition that he indemnify the transferee beforehand for any loss (Art. 32).

Droit de suite

Authors of graphic and plastic works have an inalienable right to participate in the proceeds of any sale of their works by public auction or through a dealer. The rate of the levy for this right is fixed at 3 percent, applicable only on a sales price of more than 10 000 francs (Art. 42).

5. Limitations on copyright

When a work has been disclosed, the author may not prohibit free private performances produced exclusively within the family circle, copies or reproductions reserved strictly for the private use of the copyist, parodies, pastiches and caricatures. On condition that the name of the author and the source are indicated, analyses and short quotations, reviews in the press and the dissemination, through the press or by broadcast, of certain categories of speeches intended for the public are also allowed (Art. 41).

As an exception, recordings of broadcast works may be authorized and preserved in official archives on account of the national interest which they may represent or because of their documentary character. In the absence of agreement, the conditions are fixed jointly by the Ministers in charge of Fine Arts and of Information (Art. 45).

In the case of manifest abuse in the exercise or non-exercise of the right of disclosure by the deceased author's representatives, the civil court may order any appropriate measure (Art. 20).

6. Term of protection

The duration of the right of exploitation is 50 years after the death of the author (Art. 21). For pseudonymous, collective or posthumous works, the term is counted from the date of publication of the work (Arts. 22 and 23).

Moral rights are perpetual (Art. 6).

The term of protection was extended, on account of war, by the laws of July 14-19, 1866, February 3, 1919, October 11, 1946, and September 21, 1951. Notes concerning the extension of the term of protection were exchanged with Italy (in 1951 and 1957), Norway (in 1956 and 1964), Spain (in 1957), Austria (in 1964) and the Federal Republic of Germany (1974).

7. Transfer of rights

The right of exploitation may be transferred gratuitously or for compensation (Art. 30). Transfer may be total or partial; in general, it must confer to the

author's benefit a proportionate participation in the receipts resulting from exploitation (Art. 35). Total transfer of future works is void (Art. 33). The Law contains detailed provisions on performance and publishing contracts (Arts. 31, 34 to 40, 43 to 63).

Moral rights may only be transmitted *mortis causa* to the heirs of the author (Art. 6).

On the death of the author the right of exploitation continues to the benefit of his successors (Art. 21). The surviving spouse under any matrimonial regime benefits from the usufruct of the exploitation right of which the author has not disposed (Art. 24).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No specific provisions, except for the reference to "a professional organization of authors" in the provision on the general performance contract (Art. 43), and to "the professional organizations of authors, authorized by the Minister" whose agents are entitled to determine the existence of infringements of copyright (Art. 75).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from December 15, 1972 (administrative provisions) and October 10, 1974 (substantive provisions).

Universal Copyright Convention as revised in 1971, as from July 10, 1974.

Montevideo Copyright Convention, 1889, in relations with Argentina (since 1897) and Paraguay (since 1900).

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from July 1, 1961.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from April 18, 1973.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), as from July 1, 1961.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from April 6, 1968.

12. Bilateral agreements

Treaties on copyright or treaties containing provisions on copyright have been concluded with: El Salvador (1880), Spain (1880), Norway (1881), Italy (1884), Bolivia (1887), Guatemala (1895), Costa

Rica (1896), Ecuador (1898, with the 1905 and 1952 Additional Protocols), Greece (1912), Turkey (1929), Mexico (1950) and Colombia (1953).

See also under 6 above.

13. Applicability to foreigners not covered by conventions or agreements

Under Law No. 64-869 on the application of the principle of reciprocity in the protection of copyright, dated July 8, 1964, where a State does not grant sufficient and effective protection to works which appeared for the first time in France, works which appeared for the first time on the territory of that State are not protected by French law. Any derogation, however, of the integrity or the authorship of such works is forbidden.

German Democratic Republic

1. Official title and date of current legislation

Copyright Act, of September 13, 1965. Entry into force: January 1, 1966.

2. Works eligible for protection

General eligibility criteria

The Act applies to all works and performances of authors and other persons entitled to rights thereunder, who are citizens of the German Democratic Republic. As regards works and performances first disseminated in this country, the law applies irrespective of the nationality of the author or other owner (Art. 96(1) and (2)).

Copyright extends to literary, artistic and scientific works which assume an objectively perceptible form and constitute an individual creation, which can be the work of a collective as well. The means and processes of creation are irrelevant. Sketches or plans are also protected (Art. 2(1)). Copyright extends to the title of the work if it possesses the character of an individual creation (Art. 3). Independently of this copyright protection, a title is also protected for the duration of the protection of the work when a risk of confusion exists in its being used for another work (Arts. 84 and 85).

No formalities are required.

Special categories of works

Cinematographic and photographic works, works of applied art, of industrial drawing, as well as television works, radiophonic works are protected according to the general rules (Art. 2(2)).

Copyright arises equally from adaptation and translation of a work; it also subsists in collections, anthologies and publications in so far as they are, by virtue of their form or selection, the result of individual creation (Art. 4).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

No copyright exists in items of news, in communications concerning topical events and in any kind of laws and regulations, court decisions and official announcements (Art. 5).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the author, who is the person having created the work. The adaptor and the translator also have rights in their adaptations or translations, without prejudice to the rights of the author of the work adapted or translated (Art. 6).

When a work is published anonymously or under a pseudonym and the author does not exercise his rights himself, the person who first lawfully publishes the work is entitled to exercise them (Art. 11).

The copyright in a work created by the efforts of several persons, and which constitutes an indivisible whole, belongs in common to all co-authors (Art. 7). The copyrights in independent works collected into a single one remain reserved (Art. 8).

The copyright in collections, anthologies and other editions belongs to the editor (Art. 9).

If a cinematographic or television work has been produced within an enterprise, such enterprise is exclusively entitled and obliged to control, in its own name, the rights of the collectivity of the authors of such work (Art. 10(2)).

The author of a work created in the fulfillment of obligations under an employment contract concluded with an enterprise or a scientific institution has copyright in the work. The exercise of the copyright is regulated, however, in the employment contract. The employer is entitled to use the work for purposes directly serving the accomplishment of its own objectives. The employed author is nevertheless entitled to remuneration and has the right to utilize his work for other purposes, unless otherwise agreed (Art. 20).

4. Rights granted

Copyright is a right to respect of the personality from which non-patrimonial and economic rights are derived (Art. 7 Code of Civil Law of June 19, 1975; Art. 13 Copyright Act).

Economic rights

The author has the exclusive right of deciding whether his work shall be reproduced or recorded, put into circulation for purposes of gain, publicly recited or performed, displayed, filmed or broadcast, or used accordingly in adapted or translated form (Art. 18(1) and (3)). He is entitled to remuneration in respect of any assignment of his rights to use the work; the Minister for Culture and, within

his competence, the Chairman of the State Broadcasting Committee issue provisions relating to the remuneration (Art. 19(2) and (3)).

Moral rights

The author has the right to recognition of his authorship; the name selected by him must be mentioned in connection with his work (Art. 14). He has the right to decide upon the publication of his work and upon the first public communication of the essence of its contents (Art. 15). Any modifications of the work necessitate the consent of the author, except for correction of obvious errors (Arts. 16(2) and 40). He has the right to prohibit any utilization of his work capable of damaging his artistic or scientific reputation (Art. 17).

The proprietor of the original of a work is required, at the request of the author, to give the author access to his work (Art. 43(3)). If, due to the behavior of the owner, the original of a work is threatened with deterioration or destruction, the author has the right to re-purchase it at its current value (Art. 43(4)).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

The free utilization of a work is lawful when it gives rise to a new work constituting an individual creation (Art. 22). Reproduction serving personal or professional interest is lawful, except for works of architecture (Art. 23). Brief summaries of published works can be published for the purpose of information; such summaries published in documentary publications may be reproduced in other similar publications, but not for commercial purposes (Art. 24). It is lawful to reproduce, by means of painting, drawing or photography, works permanently located in streets or public squares; as regards works of architecture, this applies to their external aspect only (Art. 25); single passages or short fragments of a published work can be quoted in an independent work; short articles or compositions and single poems already published can be incorporated in an independent scientific work; works of art, industrial drawings, or fragments of cinematographic, television or broadcasting works already published can be incorporated in an independent scientific work or in a work intended for teaching; single poems or short texts can be distributed on the occasion of public manifestation, for information; short works or fragments of works, already published, can be incorporated in a collection containing works of several authors and intended exclusively for teaching (Art. 26). Setting published literary works to music and setting already published short compositions to words are free; the use of such combinations, however, requires the consent of both authors (Art. 27).

Articles other than essays on a scientific, technical or entertaining subject, published in newspapers or magazines, can be freely reproduced in similar publications, provided they do not bear a notice of reservation of copyright (Art. 29).

In the case of free use of works under Articles 24 to 29, the source has to be indicated (Arts. 28(1) and 29(1)).

Speeches and lectures delivered on the occasion of public manifestations, other than those of a scientific nature, may be reproduced, except as publications in book form (Art. 30). Public performance of published musical works, or public recitation of disseminated literary works, is lawful if not effected with gainful intent and when neither admittance fee is requested nor the persons assisting receive any remuneration; this provision does not apply to stage performances (Art. 31). The loan of a copy of a work put into circulation is free in any case (Art. 18(2)).

The broadcasting organizations, the nationally owned film studios and the press are authorized to record, broadcast, perform, reproduce or photograph, for public information, published works or fragments thereof within the framework of reports on topical events (Art. 32(1) and (3)).

Uses permitted against payment (legal license)

The broadcasting organizations may broadcast (and record or reproduce for this purpose) published works without modification, subject to payment in accordance with State Regulations relating to authors' fees; the author must be informed. Details must be regulated by an agreement between the Chairman of the State Broadcasting Committee and the authors' organizations (Art. 32(2)).

Documentation services may, for the purpose of information and subject to remuneration, reproduce in documentary publications, in original or in translation, works of scientific, technical or literary nature, published in newspapers or periodicals (Arts. 21(1) and 24(3)).

For the purpose of recitation or artistic performance, single poems and short compositions already published can be incorporated in a collection containing works of several authors, subject to payment of remuneration (Arts. 21(1) and 26 (c)).

6. Term of protection

The protection of the rights of the author terminates 50 years following the year of his death.

Rights in publications of unknown authors terminate 50 years following the year of publication. The same rule applies to the rights held by legal entities (Art. 33).

After the expiration of the term of protection, the protection of the inviolability of the work and the safeguarding of the author's reputation devolves upon the competent State organizations (Art. 34).

7. Transfer of rights

Copyright is not assignable. The author may assign to third parties economic rights (Art. 19(1)). Such transfers can be effected by contracts concluded in writing. Oral agreement is sufficient in respect of the public performance (other than stage performance) of musical works and for the public recitation of literary or scientific works, as well as for publication of articles in newspapers and periodicals (Art. 37).

The Ministry of Culture and, so far as it is concerned, the State Broadcasting Committee shall, in collaboration with the social organizations of authors and the trade unions, publish model contracts, the provisions of which are effective if a contract does not contain any of the essential stipulations provided for in the Act (Arts. 39 and 41).

Contracts by which the author undertakes engagements in respect of the utilization of an undetermined future work is null and void, except in the case of employment relationships (Art. 42(2)).

When the owner of a right to use the work fails to make it accessible to the public, the author has the right of withdrawal; remuneration is nevertheless due to the author; he can even claim further damages when the owner of the said right fails in his obligations culpably. The same applies by analogy when the work is used contrary to the conditions of the contract (Art. 45(1), (2) and (3)).

The Act contains detailed rules on the publishing contract, the contract for public performance or public recitation and for theatrical exploitation, the contract for the cinematographic adaptation or for the performance of a cinematographic work, the contracts relating to the broadcast of a work, the contract for the recording of a work on phonograms and the contract for the use of works of figurative or applied art and photographs (Art. 46 to 72).

The rights of the author pass to his successors in title in accordance with the general provisions of the law of succession (Art. 33(2)); the protection of the legacy of eminent authors can, by decision of the Council of Ministers, become incumbent upon the Nation, and its control entrusted to a State organization or other institution, without prejudice to the economic rights of the successor in title (Art. 35).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performers

Performance of an artist or of a group of artists can be used only with the consent of the soloist or of the management of the group, respectively, in the following cases: reproduction (recording) for the purpose of sale, performance or broadcast in public; broadcasting; the making of a film. When a performance takes place under an employment con-

tract, the rights of the performer can only be exercised if they are compatible with labor law. Performers may, however, in any case require that their performances shall not be utilized in a manner prejudicial to their reputation (Arts. 73 and 74). The provisions relating to free utilization of works apply accordingly (Art. 83).

Producers of phonograms

Phonograms can only be utilized with the authorization of their producers for re-recording, broadcasting and the making of a film (Art. 75).

Broadcasting organizations

Broadcasts may be utilized in public only with the authorization of the broadcasting organization (Art. 76).

Other related rights

Photographs other than those included among artistic or scientific works, the performed works of designers of geographical maps or analogous representations, plans and sketches for scientific or technical purposes, illustrations and three-dimensional representations of scientific or technical nature may be publicly used only with the consent of their designer (Arts. 77 and 78).

Letters and other writings of a personal nature, other than works under copyright, are also protected (Art. 89).

Duration of protection

The rights in performances are protected for 10 years following the year in which the performance took place or, in the case of works mentioned in Articles 77 and 78, in which their maker died (Art. 82).

10. Agencies set up under law and their function

No specific provisions.

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, with declaration under Article 33(2), as from February 18, 1978.

Universal Copyright Convention, 1952, as from October 5, 1973.

12. Bilateral agreements

Agreement on the Reciprocal Protection of Copyrights concluded with the Union of Soviet Socialist Republics, of November 21, 1973. Date of entry into force: January 1, 1974.

13. Applicability to foreigners not covered by conventions or agreements

The protection of copyright and of performances is also granted to foreigners on the basis of reciprocity (Art. 96(3)).

Germany (Federal Republic of)

1. Official title and date of current legislation

Act dealing with Copyright and Related Rights (Copyright Act) of September 9, 1965, as amended up to March 2, 1974.

2. Works eligible for protection

General eligibility criteria

Works of German nationals and Germans within the meaning of the Basic Law are protected regardless of whether, and if so where, they were published. Works of foreign nationals published within the jurisdiction of the Act are likewise protected, unless the work or a translation thereof has been published elsewhere more than 30 days earlier. Stateless persons are assimilated to the nationals of the country where they are permanently residing (Arts. 120 to 122).

The term "works" includes only personal intellectual creations (Art. 2(2)). The Law protects literary, scientific and artistic works (Art. 2(1)).

No formalities are required.

Special categories of works

The illustrative enumeration of some sort of works contains, among others, works of pantomime, choreographic works, architectural works and works of applied art, as well as sketches of such works, photographic and analogous works, cinematographic and analogous works, illustrations of a scientific or technical nature, such as drawings, plans, maps, sketches, tables, plastic representations (Art. 2(1)).

Translations and other adaptations, as well as collections constituting as such personal intellectual creations, are protected, without prejudice to the copyright in the works adapted or collected (Arts. 3 and 4).

The Act contains no special provisions on type faces, typographical arrangement or works of folklore. The Law concerning Copyright in Designs and Models of January 11, 1876, as last amended on March 2, 1974, deals with the protection of designs and models and their deposit.

Works not protected

Acts, regulations, official decisions, guidelines thereof and official notices do not enjoy protection. The same applies to other official works published for public information, subject, however, to the prohibition of alteration and to the indication of source as provided for by the Law (Art. 5).

3. Beneficiaries of protection (copyright owners)

It is the author, i. e., the person who creates the work, who enjoys protection for his work (Arts. 1 and 7).

The right of publication and exploitation of a work of co-authors, whose respective contributions cannot be separately exploited, belongs jointly to the co-authors; a co-author, however, may not, in bad faith, refuse his consent to the exploitation or alteration of the work. In the absence of any contrary agreement, proceeds resulting from the utilization of the work accrue to the co-authors in proportion to the extent of their contributions (Art. 8).

If several authors have combined their works for exploitation in common, each of them may require, in good faith, the consent of the other to the use or alteration of such composite work (Art. 9).

Where the author is not indicated on copies of a published work, it is presumed that the person designated as editor, and in the absence of such designation the publisher, of the work is empowered to assert the author's rights (Art. 10).

Any person, if acquiring copyright in a cinematographic work by participation in the production, is deemed, in case of doubt, to have granted to the producer the exclusive right to utilize the cinematographic work in every known manner. The producer is also deemed to have acquired, for the exploitation of the cinematographic work, the right to exploit photographs created in connection with the production of the cinematographic work. The copyright in the works used to produce the cinematographic work remains unaffected (Arts. 89 and 91).

The provisions concerning copyright licenses (Arts. 31 to 42) also apply if the author has created the work pursuant to a contract of service or employment, unless anything to the contrary results from the object or nature of the service or employment (Art. 43).

4. Rights granted

Copyright protects the author with respect to his intellectual and personal relations to the work, and also with respect to the utilization of the work (Art. 11).

Economic rights

The author has the exclusive right to exploit his work in material form (Art. 15(1)). This right comprises, in particular, the rights of reproduction (Art. 16), of distribution (Art. 17) and of exhibition (Art. 18). He further has the exclusive right to publicly communicate his work in non-material form (Art. 15(2)). This right comprises, in particular, the rights of recitation, performance, representation and presentation (Art. 19), of broadcasting by wireless means or by wire (Art. 20), of communicating the work by means of sound or visual records (Art. 21), and of communicating broadcasts to the public by any technical device (Art. 22).

Cinematographic adaptations and the dissemination of other adaptations and transformations are subject to the consent of the author (Art. 23). Autonomous works created by independent use of the work of another person are, except in the case of borrowing melodies, not considered as transformations (Art. 24).

The author may demand access to the original or copies of his work if this is necessary for the making of reproductions or adaptations thereof, without prejudice, however, to lawful interests of the possessor (Art. 25).

An equitable remuneration must be paid to the author, through a collecting society, for lawful hiring and lending of copies of his work by institutions accessible to the public or if the hiring or lending is for financial gain. The provision does not apply to works published exclusively for hiring or lending purposes, or to copies lent and used in fulfillment of a contract of service or employment (Art. 27).

Moral rights

The author has the right to determine whether and how his work is to be publicly disclosed (Art. 12), the right of recognition of his authorship (Art. 13) and the right to prohibit any distortion or other mutilation of his work which would prejudice his lawful intellectual or personal interests therein (Art. 14). He also has the right to revoke a license and to prohibit reproduction in collections if the work no longer reflects his views. The licensee is entitled to equitable indemnification (Arts. 42 and 46(4)).

Droit de suite

Should the original of an artistic work, other than an architectural work or work of applied art, be resold through, by or to an art dealer or auctioneer, 5 percent of any selling price not less than 100 German marks is to be paid by the vendor to the author. The author may not in advance waive this right. Claims of this kind become unenforceable after 10 years (Art. 26).

5. Limitations on copyright

Uses permitted without payment

It is permissible to reproduce or otherwise utilize works — including portraits — in proceedings of the administration of justice or of public authorities (Art. 45).

Schools and institutions for teachers' training, as well as youth educational centers, may produce, for instructional purposes, single recordings of works transmitted within a school broadcast. Such recordings can only be preserved after the end of the current school year against equitable remuneration (Art. 47).

It is permissible to reproduce in printed media informing mainly on current events, or otherwise communicate to the public, speeches delivered publicly about questions of the day, except the use of such speeches in collections containing predominantly speeches by the same author (Art. 48).

Extracts from a number of commentaries or articles and miscellaneous information relating to facts or news of the day already disseminated by the press or broadcast can be freely used in the form of a survey (Art. 49).

Works which become perceptible in the course of events being reported on by broadcast, film or in newspapers and periodicals can be freely used to the extent justified by the purpose of the report (Art. 50).

Single passages of publicly disclosed works may be quoted in an independent literary or musical work; single works already published can be included in an independent scientific work in order to clarify its contents (Art. 51).

It is permissible to make single copies of a work for personal use. Such copies may also be caused to be made by another person, by means of a visual or sound record, or in the case of the reproduction of artistic works, however, only, if no payment is received therefor (Art. 53(1) and (2)).

It is also permissible to make, or to cause to be made, single copies for other internal uses, such as reproduction of one's own copies for inclusion in internal files to the extent necessary, or — for other than commercial purposes — with respect to small parts from published works or single articles published in newspapers or periodicals, or in the case of a work out of print, the copyright owner of which cannot be traced, or refuses his consent after 3 years without any valid reason. However, where the reproduction serves commercial purposes of the person authorized to reproduce, the author is entitled to an equitable remuneration (Art. 54(1) and (2)).

Copies made for personal or other internal use may not be distributed or used for public communication (Arts. 53(3) and 54(3)).

Neither personal nor other internal use of works is permitted in the form of recording of public recitations, performances or other presentations of the work by visual or sound fixations, the execution of plans for an artistic work and the copying of a work of architecture (Arts. 53(4) and 54(3)).

A broadcasting organization licensed to broadcast a work has the right to record the work by means of its own facilities for one-time use over its transmitters; such fixations must be destroyed, except for records of exceptional documentary value, placed in an official archive, in which case the author must be notified (Art. 55).

For the purpose of exhibiting or repairing devices for recording works or receiving broadcasts, commercial enterprises may record and publicly communicate recorded or broadcast works. Such records must be destroyed immediately (Art. 56).

Accessory works of secondary importance may be publicly used in connection with the actual subject of utilization (Art. 57).

The public communication of published works is permissible, if it serves no gainful purpose, on the part of the organizer or a third person, no admittance fee is collected and cooperating performers are paid no special remuneration. This permission does not apply to public stage performances, presentation of cinematographic works and broadcasts (Art. 52).

It is permissible to reproduce, in catalogues of exhibitions, works publicly exhibited (Art. 58). It is also permissible to reproduce works permanently placed in public places and to distribute and publicly communicate such copies. With regard to works of architecture, this applies only to the external view (Art. 59). Commissioned portraits can be reproduced by photography, photographic portraits also by other means and distributed gratuitously by the owner and by the person portrayed or by his family (Art. 60).

Uses permitted against payment (legal license)

Small works, parts of works or single artistic works already published may be incorporated in collections of works of several authors intended for religious, school or institutional use. An equitable remuneration has to be paid for reproduction or distribution. However, the use in musical collections for musical instruction is allowed only if the collection is intended for such instruction in schools, except music schools (Art. 46).

It is permissible to reproduce or otherwise communicate to the public, against equitable remuneration, single broadcast commentaries and articles from printed media of information such as newspapers, if they concern political, economic or religious questions of the day and do not contain reservation of rights (Art. 49(1)).

If from the nature of the work it is to be expected that it will be reproduced for personal use by recording broadcasts or copying existing records thereof, the author has the right to demand from the manufacturer or the importer of equipment suitable for making such reproductions a remuneration for providing such an opportunity. This right may only be enforced through collecting societies. The total claims of all copyright owners and owners of neighboring rights cannot exceed 5 percent of the proceeds realized from the sale (Art. 53(5)).

Compulsory licenses

If the author of a musical work or of the text thereof, if any, has granted a license to make and distribute sound records of the work for commercial purposes, the author or his exclusive licensee is required to grant a similar license to any other producer. This provision does not apply if the right is administered by a collecting society, if the first license has been granted or a further license is requested for producing a cinematographic work, or in cases of revocation of any existing licenses to use the work (Art. 61).

Common rules on limitations

In so far as the purpose of the use may demand, it is permissible to make translations, extracts or transpositions into another key, and other modifications of artistic works and photographs as required by the method of reproduction (Art. 62).

If the use consists in the publication or communication to the public of a work, the source must be clearly mentioned, including the author and, in

defined cases, the publisher or the broadcasting organization, provided it is indicated or otherwise known. Omissions from, or other modifications to, the work are likewise to be indicated (Art. 63).

6. Term of protection

Copyright expires 70 years after the author's death; for posthumous works first publicly disclosed more than 60, but prior to 70, years after the author's death, 10 years after the public disclosure (Art. 64); in the case of co-authors, 70 years after the death of the last surviving author (Art. 65) and in the case of unidentified authors, 70 years after the public disclosure of the work (Art. 66).

Copyright in photographic works expires 25 years after publication of the work; 25 years after creation, however, if not previously published (Art. 68).

All periods commence as from the expiry of the calendar year in which the event determining the beginning of the period has occurred (Art. 69).

7. Transfer of rights

An author may grant a license to another person, as an exclusive or non-exclusive right, to utilize the work in a particular or in any manner (Art. 31(1)). A license granting rights with respect to unknown means of utilization has no legal effect (Art. 31(4)). The scope of the grant of rights is determined in accordance with the purpose envisaged in making the grant (Art. 31(5)). Licenses may be limited as to place, time or purpose (Art. 32). A non-exclusive license granted prior to an exclusive one remains effective, unless otherwise agreed between the author and the non-exclusive licensee (Art. 33). A license may be assigned only with the author's consent, except in cases of the sale of a business enterprise; the author may not in bad faith refuse his consent (Arts. 34 and 35).

In case of doubt, the author is deemed to have reserved, as regards licenses to use the work, the rights to any adaptation; as regards licenses to reproduce the work, the right of visual or sound recording; and as regards licenses to publicly communicate the work, the right to use technical devices to make the communication perceptible to the public outside the event for which it is intended (Art. 37).

In case of doubt, the publisher of a periodical collection acquires an exclusive license to reproduce and distribute the contribution of the author. In the absence of any contrary agreement, the license turns into a non-exclusive one after the lapse of one year. The same applies to exclusive licenses concerning contributions to collections which do not appear periodically, if the author had no right to claim remuneration. As regards contributions to newspapers, in the absence of any contrary agreement, the publisher or editor is deemed to have acquired a non-exclusive license; in the case of an exclusive license and in the absence of any contrary agreement, the exclusive license turns into a non-exclusive one after publication of the contribution (Art. 38).

The licensee may undertake only such modifications in the work and its title which the author cannot in good faith refuse (Art. 39(2)).

An agreement granting a license for future works specified only by reference to their nature must be in writing and may be terminated by either party after 5 years. This right may not be waived in advance (Art. 40).

An exclusive license may be revoked under specified conditions (Art. 41).

With special regard to cinematographic works, the Act enumerates the exclusive licenses constituted in case of doubt by granting the right to make a cinematographic adaptation (Art. 88).

Regarding publishing contracts, detailed rules are contained in the Publishing Rights Act of June 19, 1901, as amended up to May 22, 1910, except its Articles 3, 13 and 42, abrogated by the Copyright Act of 1965 (Art. 141(4)).

Copyright may be transmitted by inheritance. It may be conveyed pursuant to a testamentary disposition or pursuant to the settlement of an estate. The author may assign, by testamentary disposition, the exercise of the copyright to an executor (Arts. 28 and 29).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performers

A performer is a person who recites or performs a work, or participates in doing so (Art. 73). The consent of the performer is required for any fixation or reproduction of visual or sound records of his performance and, except in defined cases, for the public communication of his performance and for the broadcast thereof. Lawfully fixed and previously published records of performances may be broadcast without the consent of the performer, but subject to equitable remuneration. The performer has likewise the right to equitable remuneration in the case of public communication of broadcasts or records of his performance (Arts. 73 to 77). The extent and conditions of the use of a performance given under a contract of service or employment are, in the absence of any contrary agreement, determined by reference to the nature of the service or employment (Art. 79). In the case of performers' groups, in addition to the consent of the soloists, conductor and producer, the consent of an elected representative or of the leader of the group is also requested (Art. 80(1)). The consent of the owner of the enterprise organizing the performance is likewise requested (Art. 81). The rights of the performer and the organizer expire 25 years after publication of the record of the performance or after the performance, if such record has not been previously published (Art. 82). The performer also enjoys the right

to prohibit any distortion or alteration of his performance injurious to his reputation. This right expires on the death of the performer or 25 years after the performance if the performer has died earlier (Art. 83). Copyright limitations with the exception of Article 61 (compulsory licenses) apply accordingly (Art. 84).

Producers of phonograms

The producer of a sound record has the exclusive right to reproduce and distribute the record, for 25 years after publication thereof, or after production if the record has not been published in the meantime. Copyright limitations with the exception of Article 61 (compulsory licenses) apply accordingly (Art. 85).

In the case of public communication of a published sound record on which a performance has been fixed, the producer has the right to an equitable participation in the remuneration received by the performer (Art. 86).

Broadcasting organizations

A broadcasting organization has the exclusive right to rebroadcast, to record or photograph the broadcast and to reproduce the fixations thereof, as well as to publicly communicate its television broadcast in accessible places against payment of an entrance fee. The right expires 25 years after the year of the broadcast. Limitations on copyright with the exception of Article 61 (compulsory licenses) apply as appropriate. In certain cases (Arts. 47(2) and 53(5)), where limitations on copyright give rise to an equitable remuneration, broadcasting organizations are not entitled to such remuneration (Art. 87).

Producers of cinematographic works

The producer of a cinematographic work has the exclusive right to reproduce the visual and/or sound record of the cinematographic work and to distribute and utilize it for public presentation or for broadcast. He also has the right to prevent distortions of his record which may prejudice his legitimate interests therein. This right is transferable and expires 25 years after production, if the record has not been previously published. Limitations on copyright with the exception of Article 61 (compulsory licenses) apply as appropriate (Art. 94).

10. Agencies set up under law and their function

A Register of Authors is kept at the Patent Office (*Patentamt*) for the registration of the real name of authors of works communicated to the public without designation thereof, if the name is submitted for registration within 70 years following the year of the publication of the work (Arts. 138 and 66(2), item 2). Related rules are contained in the Regulation on the Register of Authors, of December 18, 1965, last amended on June 26, 1970.

The Copyright Act also refers to collecting societies (e. g., Arts. 26(5), 27(1), 61(1) and 80(2)). Relevant

rules are contained in the Act dealing with the Administration of Copyright and Related Rights, of September 9, 1965, last amended on March 2, 1974.

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from January 22, 1974 (administrative provisions) and as from October 10, 1974 (substantive provisions). Declaration made under Article VI(1)(ii) of the Appendix, with effect as from October 18, 1973.

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

Montevideo Copyright Convention, 1889, in relations with Argentina, Bolivia and Paraguay, since 1927.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 5(3) (concerning Article 5(1)(b)) and 16(1)(a)(iv), as from October 21, 1966.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from May 18, 1974.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), with reservations under Article 3.1, as from October 9, 1967.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from March 1, 1970.

12. Bilateral agreements

Copyright Agreement with the United States of America, 1892.

Copyright provisions in treaties with Austria (1930, applicable anew as from January 1, 1952), Iran (1930), Turkey (1930), Thailand (1937), Pakistan (1950), Greece (1951), Egypt (1951), Peru (1951).

Protocol with Iceland, concerning copyright and industrial property rights, 1950.

Copyright provisions in Protocol with Sri Lanka (Ceylon), 1952.

Treaty with Mexico on Copyright in Musical Works, 1954.

Copyright Treaty with Colombia, 1959.

Exchange of notes, concerning the extension of the term of copyright protection, with Austria (1967), Italy (1967) and Norway (1966 and 1967) and France (1974).

13. Applicability to foreigners not covered by conventions or agreements

Foreigners also enjoy copyright protection if, according to a notice given by the Federal Minister of Justice, German nationals enjoy, in the State of which the author is a national, protection corre-

sponding to that granted to their own works (Art. 121(4)). The protection of moral rights is granted to foreigners unconditionally (Art. 121(6)).

The compulsory license for the production of sound records can be requested with respect to producers domiciled abroad only if, as is evidenced by a notification from the Federal Minister of Justice, a corresponding right is granted by the State of the producer to producers domiciled in the Federal Republic of Germany (Art. 61(2)).

Ghana

1. Official title and date of current legislation

Copyright Act (Act 85 of 1961). Entry into force: March 1, 1962.

2. Works eligible for protection

General eligibility criteria

A literary, musical or artistic work is not eligible for protection unless sufficient effort has been expended to give it an original character and unless it has been reduced to a material form, whether with or without consent (Sec. 1(2)). Protection is given to works of which the author or one of the authors is a citizen of, or is domiciled or resident in, Ghana, or of the countries specified in the Schedule to the Act (which are mostly countries parties to the Universal Copyright Convention), or a body corporate incorporated in Ghana (Sec. 2(1)).

Works other than broadcasts first published in Ghana or any country also listed in the Schedule enjoy protection, if they are not protected by reason of nationality or domicile or residence (Sec. 3).

No formalities are required.

Special categories of works

Cinematograph films, phonograms and broadcasts are included in the categories of protected works (Sec. 1(1)).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Designs registrable under the Designs Act and models intended to be multiplied by any industrial process are not eligible for copyright (Sec. 1(3)).

Works not protected

No provisions.

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author (Sec. 9). The term "author" is defined as meaning, in the case of cinematograph films, gramophone records or broadcasts, the person by whom arrangements for making them were undertaken (Sec. 15(1)).

Where a work other than a broadcast is commissioned by a person not being the employer, or, not having been so commissioned, is made in the course

of the author's employment, copyright therein vests initially in the person who commissioned the work or the author's employer, as the case may be (Sec. 9).

Copyright in works made by or under the direction of the Government or a prescribed international body vests initially in the Government or the international body in question (Secs. 4 and 9).

4. Rights granted

Copyright in a literary, artistic or musical work is the exclusive right to control the distribution of copies, public performance for payment and the broadcasting of the work (Sec. 5(1)). Wire diffusion is included in the definition of "broadcast" (Sec. 15).

Copyright in a cinematograph film is the exclusive right to control distribution of copies, the public exhibition for payment and the broadcasting of the work (Sec. 6).

Copyright in a gramophone record is the exclusive right to control the distribution of copies (Sec. 7).

Copyright in a broadcast is the exclusive right to control the distribution of copies, the public communication and the rebroadcasting of the broadcast (Sec. 8).

In all the foregoing cases, the act in question may relate to the whole work or a substantial part thereof, either in its original form or in any form recognizably derived therefrom.

The Act contains no provisions on moral rights or *droit de suite*.

5. Limitations on copyright

The following acts do not constitute infringement: fair dealing for purposes of criticism or review, or the reporting of current events; use of works by way of parody, pastiche or caricature; the distribution of copies or the inclusion in a film or broadcast of artistic works situated in a public place; the distribution of collections (including not more than two short passages from a work) for educational purposes; broadcasting for instruction in educational institutions; and the distribution of sound recordings of a published literary or musical work, if fees are paid to the owner of the copyright (Sec. 5(1)).

See also under 10 below.

6. Term of protection

The term of protection is as follows, the period being counted in each case from the end of the year in which the specified event took place:

- (a) published literary, musical or artistic works enjoy protection up to the death of the author (or of the last surviving author in the case of joint works) or the period of 25 years from the first publication of the work, whichever is later;
- (b) unpublished works enjoy protection for 25 years after the death of the author (or the last surviving author); but if a literary, musi-

- cal or artistic work is published after the expiry of this term, a new term begins on first publication as for published works (Sec. 2(3));
- (c) published cinematograph films and gramophone records enjoy protection for 20 years after the work was first published or made;
 - (d) unpublished cinematograph films and gramophone records enjoy protection for 20 years after the work was made (Sec. 2(2));
 - (e) broadcasts are protected 20 years after they were made;
 - (f) government works enjoy protection for 25 years after publication or, if unpublished, for 50 years from the year in which they were made, except in the case of films, records or broadcasts, in which case the period is only 20 years as for any other work (Sec. 4).

7. Transfer of rights

Copyright is transmissible by assignment, testamentary disposition or by operation of law, as movable property. Assignment may be limited to a part of the right or of the term, and should be in writing signed by or on behalf of the assignor.

In the case of assignment of a work of joint authorship, one owner can transfer the rights on behalf of his co-owners.

Rights in future works can be transferred (Sec. 10).

8. Domaine public payant

No provisions.

9. Neighboring rights

Producers of phonograms and broadcasting organizations are protected as owners of the relevant rights (see above).

The Act contains no provisions on the protection of the rights of performers.

10. Agencies set up under law and their function

The Minister for Information has certain functions in relation to the administration of the Act. He can interfere when a licensing body unreasonably refuses to grant copyright licenses (Sec. 12).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from August 22, 1962.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

The provisions of the Act can be extended by the Government under Section 14(2) to works of any country, irrespective of its being a party to a convention.

Greece

1. Official title and date of current legislation

Law on Literary Property, No. 2387, of June 29, 1920, with amendments subsequently adopted.

Law on Copyright of Playwrights, No. 3483, of December 16, 1909, with amendments subsequently adopted.

2. Works eligible for protection

General eligibility criteria

Original works, arrangements, copies or translations are protected without any formality (Art. 1).

Law No. 4264/1962 (Art. 1) allows Greek nationals to claim the application of the Berne Convention where it contains provisions that are more favorable to them than the national legislation.

Special categories of works

Photographic and other similar works are subject to the provisions of the Law, provided that each copy thereof bears the name of the photographer or publisher, his address, and the date of publication (Art. 14).

The creators of the component artistic parts, literary, musical or photographic, of cinematographic works enjoy the same privileges as the authors of other works (Art. 14).

Derived works (translations, adaptations) are protected in the same way as original works (see above).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

The Law does not apply to sermons, speeches in the Chamber of Deputies or in a national assembly or congress, and speeches of counsel (Art. 10).

3. Beneficiaries of protection (copyright owners)

Authors have an exclusive right in their works (Art. 1). In the case of an anonymous or pseudonymous work, the person who publishes or makes the work public enjoys the rights in it until such time as the author of the work makes himself known (Art. 4).

4. Rights granted

Authors have the exclusive right of publication, multiplication by reproduction, or copying by any means and in any manner, and in respect of dramatico-musical works, musical compositions, fragments or excerpts they have also the exclusive right of public performance (Art. 1). In general the written permission of the author or of his assignee or

legal representative is required for the performance or recitation of works or of excerpts or fragments of works (Art. 9).

The assignee of the author's rights is not entitled to alter the work in any manner without the latter's consent (Art. 15).

The Law contains no provisions on *droit de suite*.

5. Limitations on copyright

Musical compositions may be performed without permission and without compensation by bands for non-profit educational purposes or non-profit entertainment of the public, in public halls without charge for admission, or in schools, or in the open (Art. 9).

The republication, in the original or in translation, of material from periodicals or newspapers by another periodical or newspaper is permissible unless a special prohibition appears on the work. However, the source and the name of the author must be indicated (Art. 13).

Legislative Decree No. 2179, of November 23, 1942, provides that, if the work of a deceased author is of special significance to the letters or history of the Nation or to science, it may, under specified conditions, become national property and be subject to the disposition of the Minister for National Education. Compensation may be granted to the copyright owner by decision of the Minister.

6. Term of protection

Copyright continues for 50 years after the death of the author (Art. 2). The possessors of unpublished works of deceased authors enjoy protection for 50 years after they have been made public for the first time (Art. 5).

The terms mentioned above are computed from the 31st of December of the year of death or communication to the public, as the case may be.

7. Transfer of rights

Authors may transfer their rights to others (Art. 1). However, if a work in which the right of publication has been transferred by the author for remuneration has not been published within 3 years after the date on which the remuneration was paid to him, the property therein reverts to the author (Art. 12). After the death of the author, his copyright continues in favor of his heirs (Art. 2).

8. Domaine public payant

No provisions. See, however, under 5 above, last paragraph.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

Societies, associations, groups, etc., founded for the purpose of protecting author's rights, are entitled to represent the owners of those rights before any administrative, judicial or other authority, to file suits, etc., to supervise the sale of printed editions and other reproductions and to demand of the users of works statements showing the quantity of works sold or performed (Law No. 4301 of August 13, 1929, Art. 5).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from March 8, 1976.

Universal Copyright Convention, 1952, as from August 24, 1963.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from February 9, 1962.

12. Bilateral agreements

Treaty with France for the Protection of Dramatic Performance Rights (1912) and copyright provisions in treaties with Italy (1948) and the Federal Republic of Germany (1951).

Decree of January 20, 1932, concerning the protection, on the basis of reciprocity, of works created in the United States of America.

13. Applicability to foreigners not covered by conventions or agreements

The protection afforded by the Law may be extended, by means of special treaties concluded on the basis of reciprocity, to literary and artistic works produced abroad, or to theatrical works of foreign playwrights performed in Greece in a foreign language (Art. 17; Art. 14 of Law No. 3483). Under these provisions the courts protect the foreign works by application of the law of the country of origin of the work.

Guatemala

1. Official title and date of current legislation

Decree Law No. 1037 concerning Copyright in Literary, Scientific and Artistic Works, of February 8-11, 1954.

2. Works eligible for protection

General eligibility criteria

Authors of literary, scientific and artistic works enjoy protection, whether published or unpublished. Copyright is conferred by the mere creation of the work, without the need for deposit, registration, or any other formality (Art. 1). The main categories of works protected are listed in Article 6 which

includes, in general, any individual creation in the literary, scientific, artistic or musical domain capable of public utilization by any means of communication.

The protection is given to works of authors who are nationals of Guatemala or who are domiciled therein. Protection will be given to other authors or copyright owners in accordance with such treaties and conventions as have been ratified by Guatemala (Art. 20).

Special categories of works

Oral works (lectures, speeches, etc.) enjoy protection in written or recorded versions. Choreographic works and pantomimes are protected if the stage directions thereof are fixed in writing or otherwise (Art. 6).

Translations, adaptations, transformations and other versions of literary, scientific, artistic, musical, photographic and cinematographic works are protected under the Law, without prejudice to copyright in the basic work (Art. 7). Similarly, collections of works and compilations enjoy protection, if they constitute a work by reason of their selection or arrangement (Art. 4).

Works of art made principally for industrial purposes are protected under the Law if they contain an element of original creation (Art. 8).

Photographic and cinematographic works are protected according to the general rules (Art. 6).

The Law contains no provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Laws, decrees, regulations, speeches delivered in public assemblies and, in general, all official documents will not be protected under the Law, but translations of such matter enjoy protection as provided (Art. 9).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the person who created the work. The person whose name or pseudonym is indicated in the usual manner, in the absence of proof to the contrary, is deemed to be the author (Art. 2).

In respect of works created by employees in the course of their employment or under contract, the managers or the legal entities concerned own the copyright, without prejudice to any copyright owned by the employees or the contractors in their respective contributions (this applies particularly to the publishers of dictionaries and encyclopedias and the makers of cinematographic works) (Art. 3).

In the case of works created by collaboration, the right belongs to collaborators jointly (Art. 5).

4. Rights granted

Copyright means the exclusive right to use the work or to authorize its use in any manner. In particular, it consists of the rights listed in Article 10, such as

the right to reproduce the work by any means, including by means of fixation of sounds, to diffuse it by means of broadcast or by any other means, to translate, to publish, to perform in public, to exhibit, to distribute and to adapt or transform the work in any manner. Publication as defined in Article 11 includes the first offering of a cinematographic work for sale or hire and also public performance of a work.

The moral rights of the author include the right to claim authorship and to oppose modifications prejudicial to his reputation (Art. 19).

The Law contains no provisions on *droit de suite*.

5. Limitations on copyright

The Law permits reproduction of articles of current interest published in periodicals, newspapers, etc., unless such reproduction is prohibited (Art. 16). It also permits reproduction of short extracts from literary, scientific or artistic works intended for educational or scientific purposes in anthologies, or for purposes of literary criticism or research (Art. 17). The same applies also to translations or reproductions through public performance, exhibition or broadcast of the said works for the said purposes (Art. 18).

6. Term of protection

The protection ends 50 years after the death of the author or, in the case of joint works, after the death of the last surviving author. In the case of legal entities having copyright, it ends 50 years after the publication of the work (Art. 13).

The moral rights of the author have the same duration as his patrimonial rights (Art. 19).

7. Transfer of rights

Copyright owners can dispose of their rights in any manner, in whole or in part (Art. 10). Such disposal, assignment, exclusive license, etc., will convey only the right actually mentioned and not any other right (Art. 12).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no specific provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

Works protected under the Law may not, without the authorization of the Guatemalan Association of Authors and Composers, be used publicly or with gainful intent. The Association may fix appropriate royalty rates and organize the necessary administrative control (Art. 32).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from October 28, 1964.

Rio de Janeiro Copyright Convention, 1906, since 1909.

Buenos Aires Copyright Convention, 1910, since 1912.

Havana Copyright Convention, 1928, since 1932.

Washington Copyright Convention, 1946, since 1952.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, as from January 14, 1977.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from February 1, 1977.

12. Bilateral agreements

Copyright treaties with Spain (1893) and France (1895).

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above, second paragraph.

Haiti

1. Official title and date of current legislation

Decree Relating to Copyright in Literary, Scientific and Artistic Works, January 9, 1968.

2. Works eligible for protection

General eligibility criteria

All literary, scientific or artistic productions capable of being published or reproduced are protected under the Law on Literary and Artistic Property, of October 8, 1885 (Art. 1). The main categories of protected works are listed in Article 11.

Unpublished works and works published in newspapers are also protected (Arts. 12 and 16). Copyright exists as of right, from the sole fact of creation of a work, independently of any formality (Art. 41).

In respect of works published in Haiti the author is required to deposit 6 copies of the work with the Registry. Such deposit should also be made in respect of works of foreign authors, nationals of a State bound by the same international conventions as Haiti, which are published abroad and put on sale in Haiti, by a national of Haiti or by a foreigner domiciled in Haiti, within 3 months of publication. Failure to carry out this requirement involves a fine (Arts. 42 to 44).

Special categories of works

Translations, adaptations, compilations, or other versions of literary, scientific and artistic works, as well as cinematographic and photographic adaptations, enjoy protection as original works, without prejudice to the rights of the original author (Art. 14). This protection extends also to translations, etc., of works in the public domain, but such protection does not confer exclusive rights in the basic work (Art. 15).

Works of art executed for industrial purposes are also protected, but not the industrial utilization of scientific theories (Art. 13).

Choreographic works and pantomimes are protected only if their acting form is fixed in writing or otherwise (Art. 11).

Detailed provisions have been made with regard to protection of letters exchanged between persons (Arts. 49 to 55).

The Law contains no provisions on type faces, typographical arrangement or works of folklore.

Works not protected

The protection does not apply to information contained in news of the day published in the press (Art. 18).

3. Beneficiaries of protection (copyright owners)

The author, i.e., the person under whose name a work is made public, is the owner of copyright (Art. 1). If the author has not revealed his identity, the publisher may exercise the rights (Art. 38). In the case of posthumous works, the proprietors thereof, by succession or other title, are assimilated to authors (Art. 48).

4. Rights granted

Copyright is regarded as incorporeal, intellectual property for purposes of the Law, and it confers on the authors limited legal monopoly of exploitation (Arts. 1 to 3).

The rights of authors include the right to publish, perform, exhibit, reproduce, translate the work, adapt it by cinematography, or mechanical recording, or to diffuse it by broadcast, television or by any other process (Arts. 10 and 23).

Moral rights of the author, including the right to claim authorship and to oppose modifications prejudicial to his reputation as author, have been recognized (Arts. 4, 19, 20 and 46).

The Law contains no provisions on *droit de suite*.

5. Limitations on copyright

The Law provides for certain limitations in regard to the rights of exploitation of copyright and these include the following: articles in newspapers or magazines which are unsigned may be reproduced, unless specifically forbidden (Art. 17); a parody or a

pastiche or a mere plagiarism (borrowings not considerable or damaging) will not be deemed to be infringement (Arts. 31 and 32).

6. Term of protection

The author of a work can claim protection for his lifetime (Art. 23). Thereafter his heirs, as recognized by law, can claim protection for a period of 25 years from the date of his death. During the period of 25 years the surviving spouse of the author having community of property, to the exclusion of heirs, legatees or assigns, is entitled also to half of the profits of exploitation of the intellectual work of the deceased author (Arts. 24 and 25).

7. Transfer of rights

Economic rights can be transferred or assigned or disposed of in whole or in part. An agreement for publication, reproduction or performance entered into between parties is enforceable in law (Arts. 2, 9, 10 and 23).

Moral rights are inalienable (Art. 5).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms and broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from September 16, 1955.

Buenos Aires Copyright Convention, 1910, since 1919.

Washington Copyright Convention, 1946, since 1953.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above, third paragraph.

Hungary

1. Official title and date of current legislation

Copyright Act, No. III, of April 26, 1969.

2. Works eligible for protection

General eligibility criteria

Protection under the Act is provided for literary, scientific and artistic creations, and also for photo-

graphs, illustrations and other visual aids which are not covered by copyright protection as scientific or artistic works (Arts. 1 and 51).

Works first made available to the public abroad are protected within the jurisdiction of the Act only if the author is a Hungarian citizen (Art. 2).

No formalities are required, except for photographs, etc. (see above), which enjoy protection if the name of the maker and the year of their being made available to the public are indicated thereon (Art. 51).

Special categories of works

Films and works created for the purpose of broadcast are dealt with separately (Arts. 34, 41 to 43). Artistic photographs and works of applied art are protected as artistic works (Art. 46 in connection with Art. 51). Copyright also exists in architectural and technical works (Art. 44).

Derivative works (alterations, adaptations or translations) are protected, provided they have an individual original character and subject to the rights vested in the author of the original work (Art. 4(2)).

The Act contains no specific provisions on industrial designs and models, type faces, typographical arrangement or works of folklore (see, however, Art. 6(2) under 3 below, third paragraph *in fine*).

Works not protected

Legislative texts, public decisions, official notices, official files, standards and other compulsory regulations are not protected (Art. 1(3)).

3. Beneficiaries of protection (copyright owners)

Copyright is vested in the person who has created the work (Art. 4(1)).

In the case of works of joint authorship which cannot be separated into self-contained parts, copyright is vested jointly in the co-authors; if such works can be separated into parts without prejudice to the work, the co-authors have independent copyrights in their parts (Art. 5(1) and (2)). Copyright in a collection of works as an entity is vested in the editor (Art. 5(3)).

Copyright in works made available to the public anonymously or under pseudonym shall be exercised, until the author reveals his identity, by the person who first made the work available to the public (Art. 6(1)); the rights of an unknown author of an unpublished work may be enforced by competent organizations, provided that there is a well-founded presumption that the author is a Hungarian citizen (Art. 6(2)).

The authors of literary and musical works created for a film, the director and all those who contribute in a similar creative manner to shaping the film as a whole are considered the authors of the film. The authors' economic rights are acquired by the film studio as the successor in title, and are exercised exclusively by it in relation to third parties. The

moral rights belong to the authors, but the film studio is authorized to take action for the protection of such rights (Art. 41)).

In the case of works created under an employment contract, the employer is authorized to make use of such works as defined by the terms of employment and only within the sphere of his activities. The author is entitled to use his work outside that sphere with the consent of the employer, but the latter cannot withhold such consent except for well-founded reasons (Art. 14(1)). The legislation may provide for maximum terms, after the expiration of which the right of use shall belong to the author (Art. 14(2)).

4. Rights granted

The author is entitled to moral and economic rights concerning his work (Art. 7).

Economic rights

As far as the economic rights are concerned, the consent of the author is required, unless otherwise provided, for any use of his work or of the particular title thereof (Art. 13(1)). The author or his successor in title may not renounce the remuneration for the use of the work, except by express declaration (Art. 13(3)).

Moral rights

The moral rights include the right to make the work available to the public (Art. 8), the right to be or not to be indicated as the author (Art. 9), the right to oppose any unauthorized alteration or use of the work (Art. 10) and the right to withdraw, for well-founded reasons, the permission he has given for the work to be used (in this latter case, subject to compensation for the damage suffered up to the date of his declaration) (Art. 11). The author's consent is required in order that illustrations may be used in a publication of his literary work (Art. 37).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

Free use (i.e., use free of charge and without the author's consent) includes quotation (Art. 17(1)), reproduction of parts of a published work or smaller self-contained works for educational purposes and for the dissemination of scientific information (Art. 17(2)), the making of copies not intended for putting the work into circulation or producing receipt and not infringing otherwise upon rightful interests of the author, as well as the lending of copies (Art. 18), reproduction in newspapers and periodicals, or by way of broadcasting, of communications containing facts and news and of economic and political articles of news value, as well as use by television of works of fine arts, architecture and applied art, and of photographs on particular

occasions or as settings (Art. 19), communication in radio and television news programs of works in connection with current events or reproduction of publicly displayed works in newspapers, periodicals and newsreels (Art. 20), and performance for school purposes, on mass meetings or at private gatherings of works already made available to the public, provided that such performance does not serve even indirectly the purpose of producing receipts and the performers do not receive remuneration either (Art. 21). In most of the above-mentioned cases, the source and the name of the author must be indicated.

Uses permitted against payment (legal license)

The radio and television organization is authorized, subject to payment of appropriate remuneration, to broadcast in an unaltered form any work already made available to the public and, unless otherwise agreed in the contract for the theatrical use of the work, to transmit public performances (Art. 22); it is also authorized to make sound and visual recordings of works in which the broadcasting right belongs to it (Art. 23).

Compulsory licenses

The author's consent shall be considered as given to the public performance of already published literary works other than those written for stage, or of musical works already made available to the public, where the stage performance, or a complete performance of a musical work created for stage, is not involved, if the fee fixed by the organization competent to protect copyright and approved by the Minister for Culture has been paid (Arts. 36 and 40).

Other limitations

If the successors in title refuse, without good reason, to give their consent to the further use of works already made available to the public, such consent may be replaced out of public interest by a court decision, unless this would be contrary to an international convention (Art. 24). Amateur theatrical companies are entitled to perform dramatic works already published or lawfully made available, without the author's consent, subject to remuneration, except for performances not even indirectly serving the purpose of producing receipts and if the performers are not paid remuneration either (Art. 38).

6. Term of protection

The economic rights are protected during the life of the author and for 50 years following the year of his death (Art. 15(1) and (2)).

The moral rights are unlimited in time; after the expiration of the term of protection, the organization entitled to represent the interests of authors, or other organs appointed by the Minister for Culture, are qualified to take action for the protection of the

moral rights whenever the use of the work distorts it or is injurious to the reputation of the author (Art. 12).

The term of protection for films is 50 years following the year of the first showing (Art. 15(4)), and for collected works edited by scientific institutes and State organs, 50 years after the year of publication (Art. 35(2)). The duration of protection for photographs, illustrations and other visual aids is 15 years after the year of their publication or making available to the public (Art. 51(2)).

7. Transfer of rights

The Act contains provisions applicable to contracts for use of works, both in general (Arts. 25 to 30) and particularly concerning contracts for publication (Arts. 31 to 33), broadcasting (Art. 34), stage performance (Art. 39) and cinematographic adaptation (Arts. 42 and 43). In the cases defined by legislation, the author or his successor in title is entitled to conclude such contracts only with, or through, a competent organization (Art. 25). No departure to the prejudice of the author is permitted from any provision of the Act which serves to protect the author's interests (Art. 26(2)).

The Minister for Culture is authorized to regulate by decree the conditions of contracts for use not provided for in the Act and to regulate the amount of author's fees and other remunerations payable pursuant to the Act (Art. 56(3)).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performers

The Act provides for the protection of performers, whose consent is required for the recording of their performances for purposes of putting such recording into circulation or of public performance, and for transmitting the performances to an audience not present (Art. 49). The moral rights to have the name indicated and to protection against distortion are also vested in performers (Art. 50). Limitations of copyright apply accordingly (Art. 49(2)).

Producers of phonograms

Protection of producers of phonograms is granted by Decree-Law No. 19, of 1975.

Broadcasting organizations

As for the radio and television organization, its consent is required for the full or partial use of its program by other stations and for its recording for purposes of putting such recording into circulation or of public performance (Art. 23(2)).

10. Agencies set up under law and their function

A Committee of copyright experts is instituted under the supervision of the Minister for Culture, to

give expert advice to courts and other authorities on technical questions arising from legal disputes over copyright (Art. 55).

The organization competent to protect copyright referred to in the Act is the Hungarian Bureau for Copyright Protection, established by Government Decree No. 106/1952 (XII. 31) M. T. (as amended up to April 4, 1954).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from December 15, 1972 (administrative provisions) and October 10, 1974 (substantive provisions), with declaration under Article 33(2).

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

Montevideo Copyright Convention, 1889, in relations with Argentina, Bolivia and Paraguay, since 1931.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from May 28, 1975.

12. Bilateral agreements

Copyright treaties with the United States of America (1912) and the Soviet Union (1967, 1971 and 1977).

13. Applicability to foreigners not covered by conventions or agreements

Works first made available to the public abroad are protected, if the author is not a Hungarian citizen, on the basis of reciprocity (Art. 2).

Iceland

1. Official title and date of current legislation

Copyright Act of May 29, 1972. Entry into force: November 29, 1972.

2. Works eligible for protection

General eligibility criteria

Authors of literary or artistic works, whether oral or written, enjoy copyright therein, irrespective of the form of dissemination (Art. 1). Protection is available to authors who are nationals of Iceland or foreigners who are domiciled in the country or stateless persons and refugees who have their habitual residence in the country; works first published in the country, i.e., when copies are distributed, with authorization and in a considerable number, by any means in the country; buildings and works of art situated in the country; cinematographic works if

the producer has his headquarters in or is a permanent resident of the country (Art. 60).

No formalities are required.

Special categories of works

Translations or adaptations, cinematographic works and photographic works are protected as original works (Arts. 1 and 5). Composite works enjoy protection subject to rights in works incorporated therein (Art. 6).

Patterns and designs, if they fulfill the conditions of utility and artistic characteristics, are protected as applied art (Art. 10).

In respect of published printed works not protected by copyright, the reprinting or other reproduction is prohibited for 10 years from the year of publication (Art. 50).

The Act contains no specific provisions on type faces or works of folklore.

Works not protected

Official publications like acts, regulations, administrative orders, legal decisions and official translations of such documents do not enjoy protection (Art. 9).

3. Beneficiaries of protection (copyright owners)

The author of a literary or artistic work generally enjoys copyright therein (Art. 1). The person whose name appears on it or is declared as author is presumed to be the author. If there is no such name the publisher acts on behalf of the author (Art. 8).

Persons who translate, adapt or convert a work into another form enjoy copyright in the new form, without prejudice to the rights of the author of the original work (Art. 5). If a work is composite, the person making the work has copyright therein (Art. 6). If the work is of two or more authors with inseparable contributions, copyright belongs to the authors jointly (Art. 7).

4. Rights granted

Economic rights

The economic rights include the right to make copies of the work, or to publish, to perform by broadcast or otherwise, to exhibit or to make it available to the public by any means, in the original or changed form, in translation or other adaptations (Arts. 2 and 3).

Moral rights

Moral rights are protected and they include the right to claim authorship and to object to alterations prejudicial to the author's reputation or individuality (Art. 4).

Droit de suite

No provisions.

5. Limitations on copyright

The following acts do not constitute infringement, subject to the conditions mentioned in the relevant provisions: making not more than 3 copies of a work for private use (Art. 11); making photographic copies of works by specified official libraries or scientific and research institutions for their own use, in accordance with Regulations (Art. 12); making quotations from disseminated works, including cinematographic and musical works, for critical or scientific treatises or other purposes (Art. 14); reproduction in newspapers or periodicals, or in broadcasts, of popular articles on economics, politics or religion, from other newspapers or broadcasts, except when specifically prohibited, or for reporting current events (Art. 15); taking pictures of buildings and works of art permanently located in public places (Art. 16); reproduction, in composite works, of works for use in divine services or for educational purposes, under specified conditions (Art. 17); limited use of sound recordings for educational purposes and the making of copies in braille (Arts. 18 and 19); public performance of published literary or musical works for educational, charitable and non-commercial purposes (Art. 21); ephemeral recordings by broadcasting organizations; broadcasting of individual works or extracts of works with a general authorization obtained from an authors' society, under specified conditions (Art. 23).

6. Term of protection

The term of protection is 50 years after the end of the year in which the author, or the last surviving author in the case of joint works, died (Art. 43).

In the case of anonymous works, it will be 50 years from the end of the year of first publication (Art. 44).

7. Transfer of rights

Copyright may, subject to the author's moral rights, be transferred in whole or in part (Art. 27). A transferee can transfer it further only with the consent of the author (Art. 28). An agreement on the transfer can be repudiated if it leads to obviously unreasonable consequences (Art. 29). Unless otherwise agreed, a right of public performance if transferred does not confer exclusive rights; in any case, it cannot be for more than 3 years (Art. 32).

Certain specific provisions have been made in Articles 33 to 40 to regulate the terms of publishing contracts. Articles 41 and 42 contain certain special conditions in respect of film contracts.

8. Domaine public payant

No provisions.

9. Neighboring rights

Without the consent of the performing artist, performances of literary and artistic works cannot be recorded or broadcast, and recordings of his perfor-

mance cannot be diffused by wire or reproduced (Art. 45). Sound recordings cannot be copied without the consent of the producer (Art. 46). If a sound recording is used in a broadcast or other public dissemination, remuneration is payable to the producer of the recording and to the performer in accordance with the provisions in Article 47.

Broadcasts cannot be simultaneously rebroadcast or diffused by wire or recorded for broadcast; television broadcasts cannot be commercially disseminated and recorded broadcasts cannot be reproduced without the consent of the broadcasting organization (Art. 48).

Reproduction of photographs other than those protected as artistic works is prohibited without the consent of the photographer (Art. 49).

The term of protection for all the categories protected is 25 years from the end of the year in which the recording was made, the broadcast took place or the photograph was made, as the case may be; some of the limitations referred to under 5 above apply to these rights.

The above rights are protected if,

- (a) in the case of a performance, the performer is an Icelandic national or it has taken place, or a recording or broadcast thereof has been made, in Iceland;
- (b) in the case of records, wherever and by whomsoever they have been produced;
- (c) in the case of broadcasts, the headquarters of the organization is, or the transmitter is stationed, in Iceland.

The provision in Article 47 (see above) applies if the performer or the producer is a national of Iceland, or if the latter is a business enterprise resident in Iceland (Art. 61).

10. Agencies set up under law and their function

Article 58 makes provision for the appointment of a Copyright Committee to serve as an advisory body to the Minister for Education on copyright affairs.

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, with a reservation concerning the right of translation (the so-called ten-year régime), as from September 7, 1947.

Universal Copyright Convention, 1952, as from December 18, 1956.

12. Bilateral agreements

Protocol with the Federal Republic of Germany concerning copyright and industrial property rights, 1950.

13. Applicability to foreigners not covered by conventions or agreements

See under 2, first paragraph, and 9 above.

India

1. Official title and date of current legislation

The Copyright Act of June 4, 1957. Entry into force on January 21, 1958.

2. Works eligible for protection

General eligibility criteria

Literary, dramatic, musical and artistic works are protected if: (i) in the case of a published work, the work is first published in India or where the work is first published outside India, the author is a citizen of India at the date of publication, or where the author was dead at that date, was at the time of his death, a citizen of India; (ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of making of the work a citizen of India or domiciled in India; (iii) in the case of an architectural work of art, the work is located in India (Sec. 13).

No formalities are required. However, a Register of Copyrights is required to be kept at the Copyright Office in which may be entered the names or titles of works and names and addresses of authors, publishers and owners of copyright. The author or publisher of, or the owner of copyright in any work may make an application for entering particulars of the work in the said Register (Secs. 44 and 45). The Register of Copyrights is *prima facie* evidence of the particulars entered therein (Sec. 48) and this together with indexes thereof are open to inspection on payment of the prescribed fees (Sec. 47).

Special categories of works

Cinematographic works and records are protected to the same extent as literary, dramatic, musical or artistic works except where the work or a substantial part thereof is an infringement of copyright in any other work (Sec. 13).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of a work is the first owner of copyright therein (Sec. 17). The term "author" is defined to mean, in relation to: (i) a literary or dramatic work, the author of the work; (ii) a musical work, the composer; (iii) an artistic work other than a photograph, the artist; (iv) a photograph, the person taking the photograph; (v) a cinematograph film, the owner of the film at the time of its completion; (vi) a record, the owner of the original plate from which the record is made, at the time of making of the plate (Sec. 2(d)).

However, in the absence of any agreement to the contrary, in the case of:

- (a) a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, such proprietor shall be the owner of the copyright to the extent it relates to the publication or reproduction in any newspaper or periodical, but in all other respects the author shall be the owner of copyright in the work;
- (b) a photograph, painting, portrait, engraving or a cinematograph film made for valuable consideration at the instance of a person, such person shall be the owner of copyright;
- (c) a work made in the course of the author's employment under a contract of service or apprenticeship, the employer shall be the owner of copyright;
- (d) a Government work, or work made or published under the directions of an international organization, the Government or, as the case may be, the international organization shall be the owner of copyright (Sec. 17).

4. Rights granted

Copyright includes the right to produce, reproduce, perform or publish any work or any translation or adaptation thereof or use it for making a record or a cinematograph film, or for communication to the public by broadcast or otherwise. Appropriate rights in respect of cinematograph films and records are also recognized (Sec. 14).

The moral rights of the author to claim authorship, or to object to any distortion, mutilation or other modification which would be prejudicial to his honor or reputation, have been recognized and protected (Sec. 57).

The Act contains no provisions on *droit de suite*.

5. Limitations on copyright

Uses permitted without payment

The more important of the circumstances under which and the conditions subject to which acts do not constitute infringement are: fair dealing for purposes of private study, research, criticism or review, or for reporting current events in a newspaper or other periodical, or through broadcast, cinematograph film or photographs; reproduction for the purposes of judicial proceedings or for the use of Houses of the legislature; publication in a collection, intended for use of educational institutions, of short passages from published works, or reproduction or performance of works in connection with activities of such institutions; causing of a record to be heard in public as part of the amenities provided in a hotel or club or to a limited non-paying audience or for the benefit of a religious institution; publication in a newspaper of a report of a lecture, address or sermon delivered in public, and reproduction in a newspaper, magazine or periodical of an article on current economic, political, social or religious topics

except when expressly prohibited by the author; reproduction of a limited number of copies of any work in a public library by the librarian for the use of the library, or reproduction for the purpose of research or private study, or reproduction of an unpublished work kept in a library, museum or other institution to which the public has access, if such reproduction is made more than 50 years after the death of the author; reproduction by way of painting, drawing, engraving, or photography of works of sculpture or artistic craftsmanship permanently situated in a public place or of an architectural work of art (Sec. 52).

Uses permitted against payment (legal license)

The Act provides for a legal license with respect to records which have previously been made by or with the license or consent of the owner of copyright in the work recorded. This is subject to the person making the records having given the prescribed notice and paid to the owner of the copyright in the work royalties at the rate fixed by the Copyright Board (Sec. 52(1)(j)).

Compulsory licenses

The Act provides that the Copyright Board, upon receipt of a complaint that the owner of copyright in a work has refused to republish or allow republication or performance in public of the work or its communication to the public by radiodiffusion, on terms considered reasonable, may direct the grant to the complainant of a license to republish the work, perform the work in public, or communicate the work to the public by radiodiffusion, subject to payment to the copyright owner of such compensation as the Board may determine (Sec. 31).

See also under 10 below regarding grant of licenses for translation.

6. Term of protection

The general term of protection is the life of the author plus 50 years (from the beginning of the year next following that of the author's death) for works published within the lifetime of the author.

In the case of the following, the term of protection is 50 years from the year of publication of the work; a cinematographic work, a record, a photograph, a posthumous publication, an anonymous or pseudonymous publication or a work of Government or an international organization (Sects. 22 to 29).

7. Transfer of rights

Copyright is transferable and can be assigned in whole or in part for the whole term of copyright or for any part thereof. No such assignment is valid unless it is in writing and signed by the assignor (Sects. 18 and 19).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act contains no provisions on the protection of the rights of performers.

Producers of phonograms are protected in respect of records in the same way as authors in respect of literary, dramatic, or artistic works. This is subject only to the rights of the author of the work which is recorded. See also above.

The broadcasting authority or organization has a specific right known as the broadcast reproduction right for a period of 25 years from the commencement of the year following the year of broadcast. This right is deemed to be infringed when a program is rebroadcast, caused to be heard in public or recorded (Sec. 37).

10. Agencies set up under law and their function

The Act provides that there should be a Copyright Office, which will be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government (Sec. 9). A Copyright Board has also been set up under the Act (Secs. 11 and 12) to which disputes relating to copyright are referred to for adjudication. It has a Chairman who shall be a person who is or has been a Judge of the Supreme Court or a High Court, and not less than two nor more than eight other members. The Registrar of Copyrights shall be the Secretary of the Copyright Board (Sec. 11). The Copyright Board also deals with matters such as grant of licenses to produce and publish translations of literary and dramatic works under certain conditions (Sec. 32). The Copyright Board shall also, on application of any aggrieved person, order the rectification or correction of any wrong entry, or other error or defect in the Copyright Register maintained at the Copyright Office (Sec. 50).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948 (substantive provisions), as from October 21, 1958; Paris Act, 1971 (administrative provisions), as from January 10, 1975, with declaration under Article 33(2).

Universal Copyright Convention, 1952, as from January 21, 1958.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from February 12, 1975.

12. Bilateral agreements

There are no bilateral international agreements as such in this field.

13. Applicability to foreigners not covered by conventions or agreements

Provision has been made in the Act for issue of an order by the Central Government to specify the applicability of its provisions on the basis of reciprocity to the foreign works or works of certain international organizations (Secs. 40 and 41).

Ireland

1. Official title and date of current legislation

Copyright Act, No. 10, of 1963. Entry into force: October 1, 1964.

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in respect of every original literary, dramatic, musical or artistic work, if, in the case of a published work, the work was first published in Ireland or the author was a qualified person at the time of the first publication or, if the author is dead, immediately before his death; in the case of an unpublished work, the author was a qualified person at the time of making the work (Secs. 8 and 9).

A literary, dramatic or musical work is deemed to be made when it is first reduced to writing or some other material form (Sec. 3(4)).

A qualified person, if an individual, means a person who is an Irish citizen or a person domiciled or resident in Ireland; and, if a body corporate, it means a body incorporated under the laws of Ireland (Sec. 7).

Special categories of works

Adaptations and translations, choreographic works and entertainments in dumb show (the latter if reduced to writing) are protected as original works (Secs. 2(1) and 8(6)). Works of artistic craftsmanship are protected as artistic works (Sec. 9(1)). Cinematograph films and sound recordings, of which the maker is a qualified person, or which are first published in Ireland, and television or sound broadcasts made by Radio Éireann are protected (Secs. 17 to 19).

Publishers of published editions of literary, dramatic, musical or artistic works have been given the exclusive right (for a period of 25 years from the date of publication) to reproduce the work by photographic process subject to the terms of Section 20.

The Act contains no specific provisions on type faces or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of the work is the first owner of the copyright therein. The person whose name is mentioned in the work or declared as such is deemed to be the author. However, in the absence of an agreement to the contrary, in the case of a literary, dramatic or artistic work made by the author in the course of his employment by a proprietor of a newspaper or other periodical under a contract of service or apprenticeship, such pro-

prietor is entitled to the copyright in so far as it relates to the publication of the work in a newspaper; in the case of a sound recording or photograph or portrait made or executed on commission by a person who pays for it, that person is entitled to the copyright (Sec. 10).

Where a work is made or published by or under the direction or control of the Government, the Government shall be the owner (Sec. 51). Similar provision has been made in respect of works made or published by or under the direction or control of certain international bodies recognized by the Government (Sec. 44).

Specific provisions applicable to anonymous or pseudonymous works or to works of joint authorship are set out in Sections 15 and 16.

4. Rights granted

Copyright in relation to a literary, dramatic or musical work includes the right to reproduce it in any material form, to publish or perform it in public (which includes performance by the use of a record, by the exhibition of a cinematograph film or by wireless broadcast), to broadcast the work, or to cause the work to be transmitted to subscribers by diffusion service, or to do any of these acts in respect of an adaptation or translation of the work, or to adapt the work (Sec. 8(6)). In respect of an artistic work, it includes the right to reproduce or publish the work or include the work in any television broadcast or cause it to be transmitted by diffusion service (Sec. 9(8)).

In the case of a cinematograph film, copyright includes the right to make a copy thereof, to cause the film to be seen or heard in public, to broadcast it or to cause it to be transmitted to subscribers to a diffusion service (Sec. 18(4)).

For rights in respect of sound recordings and broadcasts, see under 9 below.

The Act contains no provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Sections 12 to 14 set out the cases in which, the circumstances under which and the conditions subject to which certain acts do not constitute infringement. Some of the more important of these are: fair dealing for purposes of private study, research, criticism or review or for reporting current events in a newspaper or in a broadcast or a cinematograph film; the reproduction of an artistic work by way of painting, drawing or inclusion in a cinematograph film or television broadcast, if it is permanently situated in a public place; the reading or recitation in public of reasonable extracts from works; the inclusion of passages from published works (not being themselves intended for use in schools) in a collection for use in schools and use of copyright materials for instruction in educational institutions, within the limits prescribed in Sections 12(5) and

53; use for the purposes of judicial proceedings; publication of old manuscripts, etc., in a library or museum in accordance with the terms of regulations made by the Government; reproduction by manufacture of records of musical works from records already published or imported, subject to payment of royalties and to the other conditions prescribed in Section 13.

When the author of a work, including a record or a cinematograph film, authorizes the broadcasting thereof, the person who, by receiving the broadcast, causes the work to be heard or seen, or transmitted to subscribers to a diffusion service, does not infringe the copyright in the work, record or film, as the case may be, to the extent specified in Section 52. If the owner of copyright in a work authorizes incorporation in a cinematographic film, which is broadcast, the broadcast will not infringe the said copyright in the absence of an agreement to the contrary (Sec. 48).

Detailed provisions have been made in Part V of the Act to provide for grant of license in respect of the right to record, to perform, to broadcast or to diffuse literary, dramatic or musical works or adaptations thereof, or the right to cause a sound recording to be heard in public or broadcast, and also for the operation of license schemes by organizations of copyright owners and for resolving disputes arising from such schemes.

6. Term of protection

Copyright in a literary, dramatic or musical work subsists for a period of 50 years from the end of the calendar year in which the author died; if before the death of the author the work or an adaptation thereof has not been published or performed in public, or broadcast, or records thereof have not been offered for sale, then copyright shall subsist for a period of 50 years from the end of the year in which the first of these acts in point of time took place (Sec. 8). In the case of artistic works, the period is 50 years from the end of the year of the author's death or 50 years from publication in the case of an unpublished posthumous engraving (Sec. 9).

In the case of a photograph, cinematograph film and anonymous work or the work of the Government, the period will be 50 years from the year of publication (Secs. 15, 18 and 51). Copyright in legal tender notes is perpetual (Sec. 57).

7. Transfer of rights

Copyright is transferable by assignment or testamentary disposition or by operation of law as movable property. The assignment may be in whole or in part. No assignment will be valid unless it is in writing signed by or on behalf of the author (Sec. 47). Future copyright can be assigned subject to the conditions in Section 49.

8. Domaine public payant

No provisions.

9. Neighboring rights

The maker of a sound recording, if he is a qualified person or if the record is first published in Ireland, has the exclusive right of reproduction of the recording or, subject to the limitations provided for in Section 17, causing it to be heard in public or to be broadcast or transmitted to subscribers to a diffusion service.

Television and sound broadcasts made by Radio Éireann are protected by copyright, which includes the right to make a record thereof or to rebroadcast the broadcast, or, in the case of television, to take a film or a photograph or to cause the broadcast to be seen or heard in public by a paying audience (Sec. 19).

The term of protection of these rights is 50 years from the end of the year of making the record or the broadcast. Some of the limitations under 5 above apply to these rights.

Performers are protected under a special law, Performers' Protection Act, 1968, which — subject to some exceptions — prohibits the making of records or cinematograph films from or by means of a performance, or the broadcasting and communication to the public of a performance, without the consent of the performers.

10. Agencies set up under law and their function

The Act (Part V) provides for the jurisdiction of the Controller of Industrial and Commercial Property, whose principal functions are: to deal with disputes arising from license schemes put into operation by organizations of copyright owners which grant licenses in certain cases; to deal with disputes relating to equitable remuneration in respect of public performances of sound recordings and broadcasting of films or with disputes about royalties for recording musical works already recorded for retail sale.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948 (substantive provisions), as from July 5, 1959; Stockholm Act, 1967 (administrative provisions), as from December 21, 1970.

Universal Copyright Convention, 1952, as from January 20, 1959.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from April 4, 1965.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from February 23, 1969.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

The Government has the power to apply the provisions of the Act to works published in, or to works

whose authors are citizens of or domiciled in, another country, or to sound or television broadcasts made from that country, if that country makes adequate provision for copyright of works of Irish origin (Sec. 43).

The provision can also be extended to works of international organizations in the manner provided in Section 44. The Government may also, by means of an Order, deny copyright to citizens of countries which do not give adequate protection to Irish works (Sec. 46).

Italy

1. Official title and date of current legislation

Law for the protection of copyright and other rights connected with the exercise thereof, No. 633, of April 22, 1941, as amended on August 23, 1946, May 14, 1974, and May 5, 1976.

2. Works eligible for protection

General eligibility criteria

Intellectual works having a creative character and appertaining to literature, music, the graphic arts, architecture, the theater and cinematography, whatever their mode or form of expression, are protected (Art. 1).

Protection is afforded to all works of Italian authors, wherever first published, and likewise to the works of foreign authors domiciled in Italy which are first published in Italy (Art. 185).

A general public register of works is established at the Presidency of the Council of Ministers. In the absence of proof to the contrary, registration is accepted as proof of the existence of the work and of the fact of its publication (Art. 103). Legal instruments between living persons, transferring rights recognized by the Law, may also be registered (Art. 104).

The Law provides also for the mandatory deposit of specimens or copies of works (Art. 105). Failure to deposit does not prejudice the acquisition or exercise of copyright in respect of works protected under the Law, or under international conventions (Art. 106).

Special categories of works

Works of cinematographic art are protected, provided they are not mere documentaries protected according to the rules applicable to related rights (Art. 2(6)). A special register is kept by the Italian Society of Authors and Publishers for cinematographic works (Art. 103).

Works of applied art are protected if their artistic value is distinct from the industrial character of the product with which they are associated (Art. 2(4)).

Derived works (collective works, translations, adaptations, abridgments, etc.) of a creative character are protected, without prejudice to the rights subsisting in the pre-existing work (Arts. 3 and 4).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Designs are protected by a special law, No. 1411, of August 25, 1940, as amended on May 23, 1977.

Works not protected

The provisions of the Law do not apply to the texts of official acts of the State or of public administrations (Art. 5).

3. Beneficiaries of protection (copyright owners)

Copyright is acquired by creation of the work (Art. 6). The person who, in the customary manner, is indicated as author is, in the absence of proof to the contrary, deemed to be the author of the work (Art. 8).

If the work has been created by the indistinguishable and inseparable contributions of two or more persons, the copyright belongs to all the co-authors in common (Art. 10).

In the case of a collective work, the rights of utilization belong, in the absence of agreement to the contrary, to the publisher of the work (Art. 38).

Copyright in works created and published under the name, on the account, and at the expense of the State or the Provinces and Communes belongs to them (Art. 11).

The author of the subject, the author of the scenario, the composer of the music and the artistic director are considered co-authors of a cinematographic work (Art. 44). The exercise of the rights of economic utilization, which has as its object the cinematographic exploitation of the work, belongs to the producer (Arts. 45 and 46). Exercise of the right of elaboration, transformation or translation of the produced work is subject to the consent of the co-authors. The authors of the music are entitled to collect from persons publicly showing the work a separate payment in respect of such showing. Detailed rules on the rights and obligations of the authors appear in Articles 46 to 50.

4. Rights granted

Economic rights

The rights of economic utilization of the work include the exclusive right to publish it (Art. 12), to reproduce it by any means (Art. 13), to transcribe it (Art. 14), to perform it or recite it in public (Art. 15), to diffuse it using one of the means of diffusion such as telegraphy, telephony, radio or television broadcasting, etc. (Art. 16), to put it into circulation with gainful intent (Art. 17) and to translate or elaborate it (Art. 18).

Moral rights

The moral rights of the author include the right to claim authorship of the work and to oppose any distortion, mutilation or any other modification of it capable of prejudicing his honor or reputation (Art. 20). The author is also entitled to withdraw the work from commerce, subject to liability to indemnify any persons who have acquired rights to use it (Art. 142).

Droit de suite

Authors of works of art are entitled to a percentage of the price of the first public sale of original copies, and in successive public sales (2 to 10 percent of the increase in value) (Arts. 144 to 155).

5. Limitations on copyright

Uses permitted without payment

Articles of current interest of an economic, political or religious character, published in magazines or newspapers, may be freely reproduced in other magazines or newspapers, or may be broadcast, unless such reproduction is expressly reserved (Art. 65), as may discourses delivered in public (Art. 66).

Works or portions of works may also be reproduced for use in judicial or administrative proceedings (Art. 67). The abridgment, quotation or reproduction of fragments or parts of a work for the purpose of criticism or discussion, or for instructional purposes, is likewise free within the limits justified for such purposes (Art. 70). In all the above cases an indication has to be given of the source and of the name of the author.

The reproduction of works for the personal use of readers, and the photocopying of works existing in libraries, when made for personal use or for the services of the library, is free (Art. 68). The loan of copies of protected works to the public for personal use and for non-profit-making purposes is also freely permissible (Art. 69).

Musical groups and bands of the armed forces of the State may perform musical pieces or portions of musical works in public, provided the performance is not for profit (Art. 71).

Uses permitted against payment (legal license)

Reproduction in anthologies for scholastic use is allowed, but must not exceed the extent specified by the Regulations which fix the equitable remuneration payable (Art. 70).

Compulsory licenses

The broadcasting organization is entitled to broadcast intellectual works from theaters, concert halls or any other public place without the consent of the author; his consent is required, however, for the broadcasting of new works and for the first performance in any given season (Art. 52). The same organization also has the right of ephemeral recording

(Art. 55). Remuneration is settled, in the case of disagreement between the parties, by judicial authority (Art. 56).

The author is also entitled to equitable remuneration for the performance in public establishments of broadcast works by means of sound radio receivers equipped with loudspeakers (Art. 58).

6. Term of protection

The rights of economic utilization of the work continue for the life of the author and until the termination of a period of 50 years after his death (Art. 25). In the case of collective works regarded as a whole, as well as anonymous or pseudonymous and posthumous works (in the case of the latter, provided publication occurs within 20 years from the death of the author), the duration of the rights is 50 years from the date of first publication (Arts. 26, 27 and 31).

The duration of the rights belonging to State administrations, etc. (Art. 11; see under 3 above) is 20 years from first publication (Art. 29).

The rights in cinematographic works continue for 30 years from the first public showing or, if this takes place later than 5 years after the end of the year in which the work was produced, 30 years from the year following that in which the work was produced (Art. 32).

The duration of protection provided by the Law was extended by 6 years by Decree-Law No. 440, of July 20, 1945.

7. Transfer of rights

Rights of utilization may be acquired under all methods and forms allowed by law (Art. 107). The transfer of rights must be established in writing (Art. 110). The Law contains detailed rules on contracts in general (Arts. 107 to 114) as well as on publishing contracts (Arts. 118 to 135) and contracts for public performances (Arts. 136 to 141).

The moral rights of the author are inalienable (Arts. 22 and 142).

After the death of the author, the rights of utilization of the work generally remain undivided between the heirs for a period of 3 years from the date of death; when this period has expired, the heirs may, by common accord, decide that the rights are to remain undivided or that division is to be effected (Art. 115).

Moral rights (Art. 20) may be asserted after the death of the author by certain of his close relatives or, if the public interest should so require, by the Presidency of the Council of Ministers (Art. 23).

8. Domaine public payant

For every performance or broadcast of a work suitable for public performance, or of a musical work, when the work is in the public domain, a domanial fee has to be paid to the State. The amount of the fee is determined by decree (Art. 175).

For the sale of each copy of literary, scientific, didactic and musical works in the public domain which are published in volumes, a fee, in an amount based on the price per copy or in an agreed lump sum, has to be paid into the Assistance and Insurance Fund of Authors, Writers and Musicians (Art. 177).

9. Neighboring rights

Independently of any remuneration in respect of their acting, interpretation or performance, *performers* have the right to equitable remuneration for the broadcasting, transmission by wire or recording of their acting, interpretation or recording (Art. 80). The right to remuneration continues for 20 years from the date of the recitation or performance (Art. 85). They are also entitled to oppose any diffusion, transmission or reproduction which might be prejudicial to their honor or reputation (Art. 81).

The *producer of a phonograph record* or like contrivance has the exclusive right to reproduce the record or contrivance and to put it into commercial circulation (Art. 72). He is also entitled to remuneration for the utilization for profit of the record or contrivance by means of broadcasting, cinematography or television, or in connection with any public dancing or in any public establishment (except for utilization for instructional or propaganda purposes by institutions authorized for such purposes) (Art. 73). These rights may be exercised only if deposit has been effected with the Presidency of the Council of Ministers of one copy of the record or contrivance (Art. 77). This formality is considered met if each copy of the record or contrivance bears the symbol  with an indication of the year of first publication (Law No. 404, of May 5, 1976). The duration of the rights is 30 years from the date of deposit, and may not exceed 40 years from the date of making the original (Art. 75).

The *broadcasting organization* has the exclusive right to retransmit the broadcast by wire or by radio, and to record it and utilize the recording for new transmissions, retransmissions or new recordings — without prejudice to the rights of authors, producers of phonograph records or performers (Art. 79). These rights of the broadcasting organization are applicable to television (Decree of May 14, 1974).

The Law provides also, within the framework of related rights, for the protection of rights relating to sketches of theatrical scenes (Art. 86), photographs (Arts. 87 to 92), letters and portraits (Arts. 93 to 98) and engineering projects (Art. 99). The exclusive right in respect of photographs continues for 20 years from the making of the photograph (Art. 92).

10. Agencies set up under law and their function

The *Società Italiana degli Autori ed Editori* has exclusive competence in the grant of licenses and authorizations and the collection and distribution of royalties (Art. 180). It is subject to the supervision of the Presidency of the Council of Ministers (Art. 182).

A permanent Consultative Council on Copyright is established under the direction of the Presidency of the Council of Ministers. It undertakes the study of matters bearing upon copyright or connected therewith, and gives advice upon questions relating to such matters (Art. 190).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from July 12, 1953.

Universal Copyright Convention, 1952, as from January 24, 1957.

Montevideo Copyright Convention, 1889, in relations with Argentina and Paraguay, since 1900.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 6(2), 16(1)(a)(ii), (iii) and (iv), 16(1)(b) and 17, as from April 8, 1975.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, with a declaration made under Article 7(4), as from March 24, 1977.

12. Bilateral agreements

Copyright treaties with Spain (1880) and France (1884).

Copyright provisions in treaties with Cuba (1903), Nicaragua (1906), San Marino (1939), Greece (1948) and Lebanon (1949).

Exchange of notes with the United States of America (1892 and 1915), Portugal (1906) and the United Kingdom (1958).

Agreement with Yugoslavia (1950) and exchange of notes with France (1951 and 1957), Norway (1956), Spain (1957), Brazil (1963) and the Federal Republic of Germany (1967) concerning the extension of the term of protection.

13. Applicability to foreigners not covered by conventions or agreements

The works of foreign authors not domiciled in Italy which are not published for the first time in Italy are protected subject to reciprocity (Art. 185 of the Legislative Decree No. 82, of August 23, 1946).

Japan

1. Official title and date of current legislation

The Copyright Law, No. 48, of May 6, 1970. Entry into force: January 1, 1971.

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in respect of original literary, dramatic, musical and artistic works if these

are: works of Japanese nationals; works first published in Japan including those first published abroad and published in Japan within 30 days of that first publication; works not falling within those mentioned in the preceding items to which Japan has the obligation to grant protection under an international treaty (Art. 6).

Special categories of works

Protection is available in respect of cinematographic and photographic works, as also choreographic works and pantomimes, and architectural works (Art. 10(1)).

Derivative works and compilations are protected as original works (Arts. 11 and 12).

The enjoyment of copyright is not subject to any formalities (Art. 17(2)). However, Article 77 provides that transfer of copyright is not effective against any third party without registration thereof.

Works not protected

Laws and regulations, or judgments, decisions, orders and decrees of law courts, notifications and instructions issued by organs of the State or local public entities, and also translations or compilations thereof, are not protected (Art. 13). News of the day and mere items of information are not considered "works" (Art. 10(2)).

3. Beneficiaries of protection (copyright owners)

As a general rule the author of the work is the first owner of the copyright therein (Arts. 1 and 14).

However, in the absence of any agreement to the contrary, where the work is made by an author on the initiative of his employer and in the course of his duties, and is published in the name of the employer, the employer shall be the owner (Art. 15).

In the case of a cinematographic work, authorship is attributed to those who, by taking charge of producing, directing, filming, art direction, etc., have contributed to the creation of that work as a whole (Art. 16); copyright belongs to the maker (Art. 29).

4. Rights granted

Economic rights

Copyright includes the right to reproduce, perform, exhibit or publish any work or any translation or adaptation thereof or to use it for making a record, cinematographic film or communication to the public by broadcast or diffusion by wire (Arts. 21 to 28).

Moral rights

The moral rights of the author to make his work public, to determine the indication of his name and to preserve the integrity of his work and its title against any distortion, mutilation or other modification against his will, have been recognized and provided for (Arts. 17 to 20). These rights are exclusively personal (Art. 59).

Droit de suite

No provisions.

5. Limitations on copyright***Uses permitted without payment***

Articles 30 to 49 set out the cases in which, the circumstances under which, and the conditions subject to which, various acts do not constitute infringement. Among these may be mentioned the following: fair dealing for purposes of private study, research, criticism, review or for reporting current events in a newspaper or other periodical or for broadcasting, photography or cinematography (Arts. 30, 32 and 41); reproduction, by way of painting, drawing, engraving or photography or other artistic craftsmanship, of artistic works permanently situated or exhibited in a public place (Art. 46); reproduction for purposes of judicial proceedings and of internal use in legislative or administrative organs (Art. 42); exploitation by any means of political speeches delivered in public and speeches delivered in the course of judicial proceedings (Art. 40); reproduction for the use of a library by the librarian for supply to research students for private study or in examinations, or reproduction, etc., of articles on current topics, including broadcasting thereof (Arts. 31, 36 and 39); reproduction in educational institutions or public performance for non-profit-making purposes and without performance fee (Arts. 35 and 38); ephemeral recordings by broadcasting organizations (Art. 44); reproduction in braille or making of recordings by braille library exclusively for the purpose of lending them to the blind (Art. 37).

Compulsory licenses

It is permissible to reproduce in school textbooks works already made public, subject to the payment to the copyright owner of a compensation the amount of which is fixed by the Commissioner of the Agency for Cultural Affairs (Art. 33).

A scheme for issuing compulsory licenses for the exploitation of works where the copyright owner is unknown, or for broadcasting published works or transmitting them by wire, or for manufacturing records already published under certain circumstances, has been provided for in Articles 67 to 74.

6. Term of protection

Copyright will subsist for the life of the author and 50 years from his death (Art. 51). The period of protection is 50 years from making public the work in the case of anonymous and pseudonymous works or works of a corporate body (Arts. 52 and 53), and of cinematographic and photographic works (Arts. 54 and 55). These terms are calculated from the beginning of the year following the date when the event occurred (Art. 57).

Moral rights are also protected after the author's death (Art. 60).

7. Transfer of rights

Copyright is transferable in whole or in part. The right of making or exploiting translation or adaptation should be expressly mentioned (Art. 61).

Moral rights are inalienable (Art. 59).

A right of publication has been specifically given to a publisher to whom such right has been assigned by the owner of the right of reproduction. The right of publication shall, subject to terms of the contract, expire at the end of a period of 3 years from the first publication after establishment of the right. The publisher is under an obligation to publish the work within 6 months of receipt of manuscripts or other originals (Arts. 79 to 88).

8. Domaine public payant

No provisions.

9. Neighboring rights

The rights of performers, producers of phonograms and broadcasting organizations have been recognized as laid down in Articles 89 to 104. The term of protection for these rights is 20 years from the year following the date when the performance, recording or broadcast took place (Art. 101). Payment of fees for secondary use has also been provided for (Art. 97).

10. Agencies set up under law and their function

The Commissioner of the Agency for Cultural Affairs has been given certain powers to issue compulsory licenses, to fix the amount of compensation, etc. (Arts. 67 to 74). Provision has also been made for appointment of mediators by the Commissioner of the Agency for Cultural Affairs to settle disputes arising from the rights conferred (Arts. 105 to 110).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from April 24, 1975, with a reservation concerning the right of translation (the so-called ten-year régime) applicable until December 31, 1980.

Universal Copyright Convention, as revised in 1971, as from October 21, 1977.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from October 14, 1978.

12. Bilateral agreements

Law concerning the safeguard of rights of Allied Powers and nationals of World War II, August 8, 1952, as amended May 6, 1970 (implementing Article 5(c) of the Treaty of Peace with Japan, signed on September 8, 1951).

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above, first paragraph.

Kenya

1. Official title and date of current legislation

The Copyright Act 1966, No. 3 (entry into force: April 1, 1966), as amended by the Copyright (Amendment) Act, 1975 (entry into force: May 9, 1975).

2. Works eligible for protection

General eligibility criteria

A literary, artistic or musical work is not eligible for copyright unless sufficient effort has been expended on making the work to give it an original character, and the work has been written down, recorded or otherwise reduced to material form (Sec. 3).

Copyright is conferred on every work eligible for copyright if the author is a citizen of, or is domiciled or resident in, Kenya; or, if the owner is a body corporate, it is incorporated in Kenya. Copyright is also conferred on any work (not being a broadcast) which is first published, or made (in the case of sound recordings), in Kenya (Sects. 4 and 5).

No formalities are required.

Special categories of works

Apart from literary, musical and artistic works, the Act protects also cinematograph films, sound recordings, broadcasts and programme-carrying signals (Sec. 3).

The term "works" includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which present an original character.

The term "literary work" includes lectures, encyclopedias, broadcasting scripts, etc. Artistic works include photographs and works of artistic craftsmanship, pictorial woven tissues and articles of applied handicraft and industrial art (Sec. 2(1)).

A literary, musical or artistic work presumed to have been created by an unidentified author which has been passed from one generation to another and which constitutes a basic element of the traditional cultural heritage of Kenya is protected as folklore (Sec. 15(4)).

The Act contains no specific provisions on type faces or typographical arrangement.

Works not protected

Written law or judicial decisions are not included in the definition of literary works (Sec. 2(1)).

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author. Where, however, a work is made in the course of the author's employment, or is commissioned by a person who is not the author's employer, the copyright is deemed to be transferred to the employer or the person who

commissioned the work, as the case may be, subject to any agreement between the parties excluding or limiting such transfer (Sec. 11).

In the case of a cinematograph film or sound recording, the term "author" means the person by whom the arrangements for the making of the film or recording were undertaken. Similarly, in the case of a broadcast (meaning sound or television broadcast by any material and including a diffusion over wires) transmitted from within any country, "author" means the person by whom the arrangements for the making of the transmission were undertaken, and in the case of programme-carrying signals it means the person who decides what programme the signals emitted to a satellite or passing through a satellite will carry (Sec. 2(1)).

4. Rights granted

Copyright in a literary, musical or artistic work or in a cinematograph film is the exclusive right to control the reproduction in any material form, the communication to the public and the broadcasting of the whole or a substantial part of the work (Sec. 7(1)). Copyright in a sound recording is the exclusive right to control the direct or indirect reproduction of the whole or a substantial part of the recording (Sec. 9). Copyright in a broadcast is the exclusive right to control the recording and the rebroadcasting of the whole or a substantial part of the broadcast, and, in the case of a television broadcast, also its communication to the public, in places where an admission fee is charged, and the taking of still photographs from it (Sec. 10). In the absence of a contract to the contrary, an authorization to incorporate a work in a cinematograph film includes one to broadcast the film (except in the case of a musical work) (Sec. 8). In the case of programme-carrying signals, copyright is the exclusive right to prevent the distribution thereof in or from Kenya by any distributor for whom they were not intended (Sec. 10A).

The Act contains no provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Exceptions from the copyright control, listed in the proviso to Section 7, include fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, broadcasting for educational purposes, various kinds of non-commercial use in the public interest, ephemeral recordings, use in judicial proceedings, reproduction or exhibition of an artistic work situated in a public place, etc. These exceptions, provided for in respect of literary, musical or artistic works and cinematograph films, are in some cases also applicable to sound recordings, broadcasts or programme-carrying signals (Sects. 9, 10 and 10A).

6. Term of protection

The term of copyright for literary, musical and artistic works (other than photographs) is 25 years

after the death of the author, or of the last surviving author in the case of joint authorship (in the case of anonymous or pseudonymous works or works of Government or international organizations, this period is counted from the date of publication); the same term is counted for cinematograph films and photographs, after their first making lawfully accessible to the public. For sound recordings, the term is 20 years after their making, and for broadcasts and programme-carrying signals after they took place or were emitted, respectively. The terms are calculated as from the end of the year in which each of the events took place (Secs. 4, 5 and 6).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as movable property. An assignment or testamentary disposition may be limited to some only of the exclusive rights, or to a part of the period of the copyright, or to a specified country or other geographical area. No assignment or exclusive license is effective unless it is in writing (Sec. 12).

8. Domaine public payant

No provisions.

9. Neighboring rights

Producers of phonograms and broadcasting organizations are protected as owners of the relevant rights (see above).

The Act contains no provisions on the protection of the rights of performers.

10. Agencies set up under law and their function

A competent authority, consisting of not more than 3 persons appointed by the Attorney General, may, if a licensing body is unreasonably refusing to grant licenses or is imposing unreasonable terms and conditions, direct that a license shall be deemed to have been granted at the time the act in relation to a work with which the licensing body is concerned is done, if the prescribed fees are paid (Sec. 14).

11. Relevant multilateral conventions

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from April 21, 1976.

12. Bilateral agreements

None.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

Lebanon

1. Official title and date of current legislation

Decree No. 2385, of January 17, 1924 (Part VII — Literary and Artistic Copyright), as amended up to January 31, 1946.

2. Works eligible for protection

General eligibility criteria

Copyright arises from the sole fact of creation of a literary or artistic work (Art. 137). The main categories of protected works are listed in Article 138. The rights are protected irrespective of the nationality or place of creation or publication of the work (Arts. 138 and 148).

Article 156 defines publication as issue of copies of the work; exhibition of a work of art, performance or rendition of a dramatic or musical work and the construction of an architectural work do not constitute publication.

The creation of a work gives rise to copyright without any other formality; but for the exercise of the right (institution of actions before the courts) the formality of depositing copies of the work is required. However, no formality is required for the copyright of authors who are nationals of a country member of the Berne Union (Art. 158).

Special categories of works

The law protects, *inter alia*, cinematographic and photographic works (Art. 138), translations, adaptations and arrangements (Art. 139). Collections of portions of works are protected if they have an original character (Art. 140).

Works of art enjoy protection whether or not they have an industrial character (Art. 138).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Official documents of public authorities, judicial decisions, speeches delivered at public meetings or assemblies, etc., are not protected. Nevertheless, the right of assembling into a single publication the speeches, pleadings, etc., of a single author shall belong solely to such author (Art. 142).

3. Beneficiaries of protection (copyright owners)

The author is the owner of the right and, in the case of a work of joint authorship, all the collaborators have equal rights, in the absence of agreement to the contrary (Arts. 137 and 144). The composer of the music and the author of the words in a lyrical work also have equal rights in the absence of a stipulation to the contrary (Art. 151). In the case of anonymous works and those appearing under the name of a legal entity, the publisher is entitled to exercise the rights (Art. 155).

4. Rights granted

Economic rights

The economic rights of the author include the right to publish, reproduce, adapt or translate the work or to use it by cinematography or by mechanical instruments, or to use the work or its adaptation or translation for recitation or public performance (Arts. 145 and 147).

Moral rights

Moral rights of the author include the right to claim authorship and to oppose public exhibition or any modifications made without his consent, including particularly distortions which are harmful to his reputation (Arts. 145, 146 and 152). In case the author dies leaving no heirs, the Director of the Protection Office is authorized to enforce and exercise the moral rights (Art. 168).

Droit de suite

No provisions.

5. Limitations on copyright

Reproduction, adaptation or translation of any literary, political and scientific articles in newspapers or periodicals which are not expressly prohibited can be made, subject to the mention of the source and the author; sundry items and news of the day of informative character may be reproduced or translated without such mention (Art. 141). Extracts taken from literary, artistic or scientific works for use in the preparation of school works and analyses or quotations in an article or work of criticism are permitted (Art. 149).

6. Term of protection

The exclusive right of the author continues throughout his life and for 50 years after his death (Art. 143). In the case of works of joint authorship the period of 50 years commences after the death of the last surviving co-author (Art. 144).

In the case of photographs, posthumous works, anonymous or pseudonymous works, and of works published under the name of a legal entity, the term of 50 years is calculated from the date of publication (Art. 153).

In the case of works published under the direction of the State or a municipality, society, etc., protection is granted for 50 years from the date of publication (Art. 167).

7. Transfer of rights

Copyright can be assigned in whole or in part by the author to any person (Art. 164). Such assignment must be in writing (Art. 163). When copyright devolves on the State by inheritance, the exclusive rights expire (Art. 165). In other respects copyright is of the same nature as right to a movable property and is transmissible in accordance with the rules of civil law (Art. 157).

8. Domaine public payant

No provisions.

9. Neighboring rights

The law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The Director of the Protection Office exercises the moral rights of a deceased author (Art. 168) and performs certain functions to enforce the penal provisions (Arts. 175, 176 and 179).

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, as from September 30, 1947.

Universal Copyright Convention, 1952, as from October 17, 1959.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above, second paragraph.

Liberia

1. Official title and date of current legislation

Act Adopting a New Patent, Copyright and Trademark Law, Chapter 2 (Copyrights), of May 24, 1972. Entry into force: August 2, 1972.

2. Works eligible for protection

General eligibility criteria

Literary, scientific and artistic works are eligible for protection under the Act (Sec. 2.1).

Authors are entitled to enjoy the rights provided for in the Act only on the issue of a certificate by the Secretary of State (Sec. 2.4) on the filing of a declaration under Section 2.2. Works thus protected must have a notice of copyright affixed on all copies (Sec. 2.5). These formalities are not applicable to foreign works protected by the Universal Copyright Convention (Sec. 2.11).

Special categories of works

Cinematographic and photographic works, articles of applied handicraft and industrial art, translations, adaptations and arrangements, as well as works inspired by folklore, are protected as original works (Sec. 2.1(c)).

The Act contains no specific provisions on type faces or typographical arrangement.

Works not protected

No provisions.

3. Beneficiaries of protection (copyright owners)

The author is the owner of the copyright; where, however, the work is produced by officials, employees or workers, as part of their duties, or where it is commissioned by a person, the original copyright vests, unless the contrary results from a contract, in the employer or the person who commissioned the work, as the case may be (Sec. 2.1(b)).

4. Rights granted

The author has the exclusive right to reproduce his works and to sell or authorize reproductions thereof; he also has the exclusive right to communicate the work or to authorize its communication to the public by performance by any medium of communication (Sec. 2.7).

The Act contains no provisions on moral rights or *droit de suite*.

5. Limitations on copyright

The limitations provided for include: communication, free of charge or for educational purposes or at religious services, of works lawfully made accessible to the public; reproduction, translation, adaptation or arrangement thereof exclusively for personal or private use; sound or sound and visual reproduction of works broadcast, for educational purposes; quotation of works already lawfully made accessible to the public; reproduction of articles on current political, social, economic or religious topics (Sec. 2.8).

6. Term of protection

The rights of authors who are natural persons are protected during their lifetime and for 25 years thereafter. Where the work is the original property of a legal entity, including the Republic of Liberia, and in the case of anonymous and pseudonymous works, the term of protection is limited to 25 years from the date of first publication (Sec. 2.7).

7. Transfer of rights

Copyright may be transmitted to the heirs of the author or to his successors in title; it may be alienated in whole or in part (Sec. 2.9).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The Secretary of State is entrusted with receiving declarations and issuing certificates of copyright under Sections 2.2 to 2.4 (see under 2 above).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from July 27, 1956.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

No provisions.

Libyan Arab Jamahiriya

1. Official title and date of current legislation

Law on the Protection of Copyright, No. 9, of 1968. Entry into force: March 30, 1968.

2. Works eligible for protection

General eligibility criteria

Any original literary, artistic or scientific work enjoys protection regardless of the kind of work, the form of its expression, its importance, or the purpose for which it was created (Art. 1). The main categories of protected works are listed in Article 2.

The protection is available to works of authors of Libyan nationality and to works of foreign authors published or performed for the first time in Libya, as well as to works of Libyan authors published or performed in a foreign country (Art. 50).

No formalities are required.

Special categories of works

Cinematographic works, photographic works, works of applied art, collections, translations, transformations, etc., are included in the category of protected works (Arts. 2 and 3). Collections of works which constitute a separate intellectual creation by reason of their originality and the arrangement of their contents are protected (Art. 4). Titles of works which are original are protected under the trademarks law (Art. 2).

The Law contains no specific provisions on designs and models, type faces, typographical arrangement or works of folklore.

Works not protected

Collections of various works or of official documents, such as texts of laws, decrees, judicial decisions, etc., are not protected unless they constitute intellectual creations (Art. 4).

The protection does not extend to news of the day or to miscellaneous facts having the character of mere items of information (Art. 14).

3. Beneficiaries of protection (copyright owners)

Authors of original works enjoy protection, and the person or body corporate in whose name a work is registered is considered the author of the work, unless there is proof to the contrary (Art. 1). In the case of a work of joint authorship, the co-authors are deemed to be equal owners, unless otherwise agreed; the rights cannot be exercised separately by one of them without the consent of the other co-authors (Art. 25).

Where the contribution of each author is distinct from the joint work, each author has the right, unless otherwise agreed, to exploit separately his personal contribution without prejudice to the exploitation of the joint work (Art. 26). In respect of a collective work published under the direction of a person or body corporate, such person or body corporate is considered to be the sole author (Art. 27).

In the case of pseudonymous or anonymous works, the publisher is deemed to have been authorized to exercise the author's rights (Art. 28). In the case of musical songs, the author of the musical part has the right to authorize public performance of the whole work, without prejudice to the copyright of the author of the literary part (Art. 29), while in the case of entertainments in dumb show or other musical shows the author of the non-musical part alone has the right to authorize public performance (Art. 30).

In the case of works intended for cinema, radio or television, the authors of the scenario or the story, of the adaptation, of the dialogue and of the musical composition created specially for the work, as well as the director, are regarded as co-authors; if such work is derived from an existing work, the author of the latter is also regarded as co-author (Art. 31). Unless otherwise agreed, the maker of a cinematographic work represents the authors of such work in matters concerning contracts concluded for the presentation and exploitation of the work (Art. 34).

4. Rights granted

Economic rights

The author has the exclusive right to publish the work and to the economic exploitation thereof through direct communication of the work to the public in any way, such as by recitation, performance, broadcast, etc., or indirect communication of the work to the public by means of copies reproduced by printing, photography, cinematography, or by other means of reproduction (Arts. 5 and 6). He has also the exclusive right to translate the work into another language (Art. 7). If, however, the author or the translator does not exercise his right within 3 years from the date of first publication, the right of translation into Arabic is forfeited (Art. 8).

Moral rights

The author's moral rights include the right to claim authorship and to object to any omissions or alterations which are prejudicial to his honor or reputation (Art. 9).

Droit de suite

No provisions.

5. Limitations on copyright

In the case of published works the author cannot object to performance or recitation before a family gathering or within a society, club or school, or to performance of musical works by a military band or State musicians, provided no entrance fee is charged (Art. 11).

The following are some of the other acts which are permitted: making single copies for personal use or short quotations from a published work for the purpose of criticism, debate, cultural development or information or in textbooks (Arts. 12, 13 and 17); reproduction of extracts or quotations from works in newspapers or periodicals within 3 years of the publication, provided such reproduction is not from articles, serials, etc., from other newspapers; reproduction in newspapers or periodicals of articles on political, economic, scientific or religious topics, except when expressly forbidden (Art. 14); publication or broadcast, for informative purposes, of speeches or lectures delivered in public sessions of legislative or administrative bodies or in scientific, political, social or religious gatherings if they are intended for the public (Art. 15); however, collections of such articles or speeches (Arts. 14 and 15) can be published only by the author (Art. 16).

6. Term of protection

The economic exploitation of the right terminates 25 years after the death of the author, but the total period of protection cannot be less than 50 years from the date of first publication. In the case of photographic and cinematographic works, which merely involve photographing or filming by technical means, the period of protection is 5 years from the date on which they are first made available to the public. In the case of works of joint authorship, the period of 25 year begins as from the date of the death of the last surviving co-author, but if one of the co-authors is a body corporate, the protection period is 30 years from the first publication (Art. 20).

Anonymous and pseudonymous works are protected for 25 years from publication, unless the author reveals his identity (Art. 21). In the case of posthumous works the period starts from the date of the death of the author (Art. 22).

Where the successors of the author do not publish a work, the Minister for Information and Culture may, if he considers that it is in the public interest to do so, exercise their rights subject to the procedure specified in Article 23.

7. Transfer of rights

The rights of the author are heritable.

The author has the right to transfer his rights of exploitation, by a written authorization which must specify clearly the actual rights transferred (Art. 38). If it is subsequently found that the rights of the author are impaired as a result of the contract, the judge may order that additional payment be made to the author (Art. 40). Transfer of all future works is deemed void (Art. 41). Moral rights cannot be transferred (Art. 39). The author has the right of withdrawal, subject to payment of fair compensation (Art. 43).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, with declaration under Article 33(2), as from September 28, 1976.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

The Law is applicable to works of foreign authors which are published or performed for the first time in a foreign country, if they are protected in such foreign country and if works of Libyan nationals are protected there in the same manner as their works published or performed for the first time in Libya (Art. 50).

National Legislation

IRELAND

I

Copyright (Foreign Countries) Order, 1978

(No. 132 of 1978)*

1. This Order may be cited as the Copyright (Foreign Countries) Order, 1978.

2. In this Order —

“the Act” means the Copyright Act, 1963 (No. 10 of 1963);

“country of the Berne Union” means a country which ratified or has acceded to and has not denounced the Convention of the International Union for the Protection of Literary and Artistic Works signed at Berne on the 9th day of September, 1886, or ratified or has acceded to and has not denounced a revision of that Convention;

“country of the Universal Copyright Convention” means a country which ratified or has acceded to and has not denounced the Universal Copyright Convention signed at Geneva on the 6th day of September, 1952, or has acceded to and has not denounced a revision of that Convention.

3. Subject to Articles 4, 5 and 6 of this Order, the Act shall, as respects acts done or omissions made after the commencement of this Order, apply to:

(a) literary, dramatic, musical or artistic works, cinematograph films or published editions of literary, dramatic or musical works, first published (whether before or after the making of this Order) in any country of the Berne Union or of the Universal Copyright Convention, in like manner as if the works or other subject-matter were first published within the State,

(b) literary, dramatic, musical or artistic works, cinematograph films or published editions of literary, dramatic or musical works (whether first published before or after the making of this Order), the authors or makers of which were, at the time of the first publication thereof, subjects or citizens of any country of the Berne Union or of the Universal Copyright Conven-

tion, in like manner as if the works were the works of Irish citizens,

(c) unpublished works or cinematograph films of unpublished works the authors or makers of which were, at the time of the making of the works or films, subjects or citizens of any country of the Berne Union or of the Universal Copyright Convention, in like manner as if the authors or makers were Irish citizens, and

(d) unpublished works or cinematograph films of unpublished works the authors or makers of which were, at the time of the making of the works or films, resident in any country of the Berne Union or of the Universal Copyright Convention, in like manner as if the authors or makers were resident in the State.

4. Copyright shall not subsist by virtue of this Order in any work or other subject-matter by reason only of the publication of the work or other subject-matter in a country of the Universal Copyright Convention (not being a country of the Berne Union) before —

(a) the 20th day of January, 1959, or

(b) if such country became a country of the Universal Copyright Convention on or after the 20th day of January, 1959, and before the date of the making of this Order, the date on which it became a country of the Universal Copyright Convention.

5. Nothing in the Act, as applied by this Order, shall be construed as reviving any right to make, or restrain the making of, or any right in respect of, translations, if the right has ceased before the making of this Order.

6. Where any person has, before the commencement of this Order, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any works or cinematograph films of works in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work or cinematograph film at a time when such repro-

* This Order was issued by the Government in exercise of the powers conferred on it by Section 43 of the Copyright Act, 1963 (see *Le Droit d'Auteur (Copyright)*, 1963, pp. 141 *et seq.*).

duction or performance would, but for this Order, have been lawful, nothing in this Order shall diminish or prejudice any right or interest arising from, or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

7. (1) The orders specified in the Schedule to this Order are hereby revoked.

(2) Where, by virtue of an Order which is revoked by paragraph (1) of this Article, copyright subsisted in a work or other subject-matter immediately before the making of this Order, copyright shall continue to subsist in the work or other subject-matter as if the order had not been revoked.

SCHEDULE Orders Revoked

Number and Year of the Statutory Instruments	Title
No. 50 of 1959	Copyright (Foreign Countries) Order, 1959
No. 199 of 1960	Copyright (Foreign Countries) (Amendment) Order, 1960
No. 5 of 1963	Copyright (Foreign Countries) (Amendment) Order, 1963
No. 274 of 1963	Copyright (Foreign Countries) (Amendment No. 2) Order, 1963

EXPLANATORY NOTE

*(This Note is not part of the Instrument
and does not purport to be a legal interpretation)*

The effect of this Order is to extend the benefits of the Copyright Act, 1963, other than those provided by sections 17 and 19 to the countries of the Berne Union and of the Universal Copyright Convention.

II

Copyright (Foreign Countries) (No. 2) Order, 1978

(No. 133 of 1978)*

1. This Order may be cited as the Copyright (Foreign Countries) (No. 2) Order, 1978.

2. In this Order —

“the Act” means the Copyright Act, 1963 (No. 10 of 1963);

“country of the Berne Union” means a country which ratified or has acceded to and has not denounced the Convention of the International Union for the Protection of Literary and Artistic Works signed at Berne on the 9th day of September, 1886, or ratified or has acceded to and has not denounced a revision of that Convention;

“country of the Universal Copyright Convention” means a country which ratified or has acceded to and has not denounced the Universal Copyright Convention signed at Geneva on the 6th day of September, 1952, or has acceded to and has not denounced a revision of that Convention;

“country of the Rome Convention” means a country which ratified or has acceded to and has not denounced the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations signed at Rome on the 26th

day of October, 1961, or ratified or has acceded to and has not denounced a revision of that Convention.

3. Subject to Articles 4, 5 and 6 of this Order, the Act shall, as respects acts done or omissions made after the commencement of this Order, apply to:

(a) sound recordings made by a citizen of, or first published (whether before or after the making of this Order) in, any country of the Berne Union or of the Universal Copyright Convention or of the Rome Convention in like manner as if the sound recordings were made by a citizen of or first published within the State, and

(b) television broadcasts and sound broadcasts made (whether before or after the making of this Order) in any country of the Berne Union or of the Universal Copyright Convention or of the Rome Convention in like manner as if the broadcasts were first made within the State and the references in section 19 of the Act to Radio Telefis Éireann were references to the broadcasting authority by whom the broadcasts were made and the references in that section to a place in the State were references to the places from which they were made.

* This Order was issued by the Government in exercise of the powers conferred on it by Section 43 of the Copyright Act, 1963 (see *Le Droit d'Auteur (Copyright)*, 1963, pp. 141 et seq.).

4. Copyright shall not subsist by virtue of this Order in any sound recording, television broadcast or sound broadcast by reason only of the publication of the recording or broadcast in a country of the Universal Copyright Convention (not being a country of the Berne Union) before—

- (a) the 20th day of January, 1959, or
- (b) if such country became a country of the Universal Copyright Convention on or after the 20th day of January, 1959, and before the date of the making of this Order, the date on which it became a country of the Universal Copyright Convention.

5. Copyright subsisting by virtue only of this Order in a sound recording shall not include the right to equitable remuneration under section 17(4)(b) of the Act unless that right or a right giving rise to a claim for remuneration subsists in the country in which the sound recording was first published.

6. Where any person has, before the commencement of this Order, taken any action whereby he has incurred any expenditure or liability in connection

with the reproduction or performance of any sound recordings, television broadcasts or sound broadcasts in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of such a recording or broadcast at a time when such reproduction or performance would, but for this Order, have been lawful, nothing in this Order shall diminish or prejudice any right or interest arising from or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

EXPLANATORY NOTE

*(This Note is not part of the Instrument
and does not purport to be a legal interpretation)*

The effect of this Order is to extend the benefits of sections 17 and 19 of the Copyright Act, 1963, to countries of the Berne Union, of the Universal Copyright Convention and of the Rome Convention.

III

Performers' Protection (Foreign Countries) Order, 1978

(No. 134 of 1978)*

1. This Order may be cited as the Performers' Protection (Foreign Countries) Order, 1978.

2. (1) The Performers' Protection Act, 1968 (No. 19 of 1968), shall, as respects acts done or omissions made after the commencement of this Order, apply to records and cinematograph films of performances made (whether before or after the making of this Order) in any country of the Rome Convention without the consent, in writing or otherwise as required by the laws of that country, of the performers.

(2) In this Article "country of the Rome Convention" means a country which ratified or has acceded to and has not denounced the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations signed at Rome on the 26th day of October, 1961, or ratified or has acceded to and has not denounced a revision of that Convention.

3. Where any person has, before the commencement of this Order, taken any action whereby he has

incurred any expenditure or liability in connection with the reproduction or performance of any records or cinematograph films in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a record or cinematograph film at a time when such reproduction or performance would, but for this Order, have been lawful, nothing in this Order shall diminish or prejudice any right or interest arising from, or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who, by virtue of this Order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

EXPLANATORY NOTE

*(This Note is not part of the Instrument
and does not purport to be a legal interpretation)*

The effect of this Order is to extend the protection for performances provided for in the Performers' Protection Act, 1968, to performances made in the countries of the Rome Convention.

* This Order was issued by the Government in exercise of the powers conferred on it by Section 12 of the Performers' Protection Act, 1968 (see *Copyright*, 1969, pp. 134 *et seq.*).

General Studies

Reprography and the Berne Convention (Stockholm—Paris Version)

Study of the Union system with an outline solution in domestic law

Frank GOTZEN *

News Items

UNITED STATES OF AMERICA

National Commission on New Technological Uses of Copyrighted Works (CONTU)

Final Report

The National Commission on New Technological Uses of Copyrighted Works (CONTU) was created in the Library of Congress under Public Law No. 93-573 of December 31, 1974. The purpose of the Commission was to study and compile data on:

- "(1) the reproduction and use of copyrighted works of authorship —
 - (A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and
 - (B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and
- (2) the creation of new works by the application or intervention of such automatic systems or machine reproduction."

The Commission was required to make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

The Commission, having collected data, held hearings, and deliberated over a period of three years, submitted its final report to the President and the Congress on July 31, 1978, as mandated by Public Law No. 93-573, Title II, and amended by Public Law No. 95-146.

The Report presents recommendations on those changes in copyright law and procedure needed both to assure public access to copyrighted works used in conjunction with computer and machine duplication systems and to respect the rights of owners of copyright in such works, while considering the concerns of the general public and the consumer.

Computer Recommendations

The new copyright law should be amended 1) to make it explicit that computer programs, to the extent that they embody an author's original creation, are proper subject matter of copyright; 2) to apply to all computer uses of copyrighted programs by the deletion of the present Section 117; and 3) to assure that rightful possessors of copies of computer programs can use or adapt these copies for their use.

The Act of 1976 should be amended to apply to all computer uses of copyrighted data bases and other copyrighted works fixed in computer-sensible media by the deletion of its present Section 117.

Works created by the use of computers should be afforded copyright protection if they are original works of authorship within the Act of 1976. Consequently no amendment is needed.

The Register of Copyrights should adopt appropriate regulations regarding the affixation of notice to and the registration and deposit of works of authorship used in conjunction with computers.

Any legislation enacted as a result of these recommendations should be subject to a periodic review to determine its adequacy in the light of continuing technological change. This review should especially consider the impact of such legislation on competition and consumer prices in the computer and information industries and the effect on cultural values of including computer programs within the ambit of copyright.

Photocopying Recommendations

The Act of 1976 should be amended at this time only to provide specific guidance for situations in which photocopying is done by commercial organizations on demand and for profit.

In conducting the five-year review of photocopying practices required by Section 108(i) of the Act

of 1976, the Register of Copyrights should begin immediately to plan and implement a study of the overall impact of all photoduplication practices on both proprietors' rights and the public's access to published information.

Publishers, libraries and government agencies should cooperate in making information about the copyright status of all published works, both current and older publications, more readily available to the public.

Commissioner John Hersey dissents from these recommendations which deal with computer programs. He recommends that:

"The Act of 1976 should be amended to make it explicit that copyright protection does not extend to a computer program in the form in which it is capable of being used to control computer operations."

Calendar

WIPO Meetings

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

1978

November 13 to 17 (Geneva) — International Patent Classification (IPC) — Working Group II

November 20 to 24 (Geneva) — Revision of the Paris Convention — Working Group on Conflict Between an Appellation of Origin and a Trademark

November 27 to December 1 (Geneva) — Revision of the Paris Convention — Working Group on Inventors' Certificates

November 28 to December 6 (Geneva) — Revision of the Paris Convention — Preparatory Intergovernmental Committee

December 4 to 8 (Geneva) — International Patent Classification (IPC) — Working Group III

December 18 to 22 (New Delhi) — Development Cooperation (Copyright) — Regional Seminar on Copyright and Neighboring Rights for Asian and Pacific States and territories (convened jointly with Unesco)

1979

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)

March 12 to 16 (Dakar) — Permanent Committees for Development Cooperation (Industrial Property and Copyright)

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

November 13 to 15 (Geneva) — Technical Committee

November 15 to 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

1979

International Federation of Musicians (FIM)

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

