

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

Copyright

15th year - No. 10
October 1979

Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

	Page
BERNE UNION	
— Working Group on the Overall Problems Posed for Developing Countries by Access to Works Protected under Copyright Conventions (Paris, July 2 to 6, 1979)	247
Italy. Ratification of the Paris Act (1971) of the Berne Convention	250
NATIONAL LEGISLATION	
— Australia. Broadcasting and Television Amendment Act 1977 (No. 160 of 1977)	251
— Poland. I. Ordinance of the Minister for Culture and the Arts relating to the rules for the conclusion of contracts and on model contracts concerning composition, first public performance, publication and disclosure of musical works (No. 58, of September 18, 1975)	252
II. Ordinance of the Council of Ministers relating to the rules for the conclusion of contracts with authors and to the rates of remuneration for literary works and translations commissioned or exploited by the radio and television organizations (No. 114, of September 1, 1978)	254
CONVENTIONS NOT ADMINISTERED BY WIPO	
— Universal Copyright Convention	
Denmark. Ratification of the Convention as revised in 1971	256
GENERAL STUDIES	
— Legal Problems Deriving from the Use of Videograms (G. Davies)	257
CALENDAR OF MEETINGS	264

© WIPO 1979

Any reproduction of official notes or reports, articles and translations of laws or agreements, published in this review, is authorized only with the prior consent of WIPO.

Berne Union

Working Group on the Overall Problems Posed for Developing Countries by Access to Works Protected under Copyright Conventions

(Paris, July 2 to 6, 1979)

Report

Introduction

1. In accordance with the decisions taken by the Executive Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) and the Intergovernmental Committee of the Universal Copyright Convention at their sessions in November/December 1977, the Secretariat of Unesco and the International Bureau of WIPO convened a Working Group composed of experts from 14 countries who participated in the meeting in their personal capacity. The meeting was also attended by representatives of six national copyright information centers and of 11 international non-governmental organizations as observers. The list of participants is annexed to this report.

2. The documentation available to the Working Group consisted of replies received from 25 States to a joint questionnaire sent by Unesco and WIPO on June 30, 1978, to all member States of the United Nations; as also an analysis of the said comments including a questionwise compilation of the replies received (documents UNESCO/WIPO/WG.1/CWA/2, Add. 1 and Add. 2, and UNESCO/WIPO/WG.1/CWA/3, with the annexes thereto).

Opening of the Meeting

3. The meeting was opened on behalf of the Director-General of Unesco by Miss Marie-Claude Dock, Director of the Copyright Division, and by Mrs. K.-L. Liguier-Laubhouet, Deputy Director General of WIPO, who welcomed the participants.

Election of Chairman

4. The Working Group unanimously elected Mr. Mihály Ficsor, Director General of the Hungarian Bureau for Copyright Protection, as its Chairman.

Problems Concerning Access to Works of Foreign Origin Protected by Copyright

5. In the course of the general debate, the Working Group noted that the problems posed by access to works of foreign origin protected by copyright were not merely confined to the legal aspects but extended to the practical aspects such as information dissemination, economic, financial and others. The Working Group considered measures for facilitating and promoting the licensing systems as provided for in the 1971 texts of the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention for the benefit of developing countries.

6. The general debate was followed by detailed discussions based on the analysis of comments received from the States (document UNESCO/WIPO/WG.1/CWA/3) and the Working Group has taken into account legal, economic and other related aspects of access by developing countries to works protected by the Copyright Conventions.

7. Following the debate a drafting committee consisting of S. Abada, A. Kerever, D. N. Misra, N. Ndiaye, J. M. Terán Contreras and the Chairman of the Working Group prepared a draft of recommendations.

8. After having examined this draft, the Working Group adopted the text of the following recommendations which will be submitted to the next meetings of the Copyright Committees scheduled to be held in Paris in October 1979.

Recommendations

After having examined the overall problems posed for developing countries by access to works protected under the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention (hereinafter referred to as the "Copyright Conventions") in all their legal, economic, and practical aspects, and having dealt with the implementation of the revised 1971 texts of the said Conventions as also with

practical arrangements which would assist such implementation, the Working Group recommends with a view to effective application of these texts in order to permit easier and quicker access to the international repertoire of protected works, and thus to encourage translation and reproduction of these works in the developing countries as a means of promotion of education, research and culture, that the following measures be taken, depending on each case and whenever appropriate, by the governmental authorities, the private or public organizations concerned, the Secretariat of Unesco and the International Bureau of WIPO, according to their respective competence:

1. Copyright legislation should be adopted in developing countries where it does not exist and should be updated as necessary where it does exist;
2. A larger number of countries should accede to the 1971 texts of the Copyright Conventions and if developing countries wish to avail themselves of the facilities provided for in these Conventions for developing countries they should deposit the required notification (Appendix to the Berne Convention and Articles V^{bis} to V^{quater} of the Universal Copyright Convention);
3. Assistance to the developing countries should be provided by the Secretariat of Unesco and the International Bureau of WIPO in:
 - (a) elaborating or updating their copyright legislation;
 - (b) training the concerned nationals in these countries in order to facilitate implementation of such legislation;
 - (c) creating or strengthening of infrastructure in these countries for the administration of copyright in order to permit easier, quicker and less costly access to protected works;
4. Guidelines covering the overall problems posed by the practical implementation of licensing procedures for translation and reproduction should be drawn up indicating, in particular, model procedures for obtaining easier and quicker access to protected works, and the steps that developing countries could take in locating and approaching right holders;
5. The guidelines should cover both cases of contractual agreements (voluntary licenses) as well as compulsory licenses. These guidelines should specify as to how the voluntary system could be used, whom a prospective user should approach, what should be contained in the request, and what conditions should be specified therein;
6. These guidelines should therefore include, *inter alia*, a model form of request for granting of rights which would contain the essential information to be provided in order to initiate the negotiations for obtaining the rights of translation and/or reproduction, such as the title of the book, the language in which it would be translated, the name of the author, the edition, the clientele for which the publication is intended, etc.;
7. The copyright owners of developed countries should as a general rule grant the rights of translation or reproduction to the applicants from developing countries and give them these rights at preferential rates fixed with due regard to the economic situation prevailing in the developing country concerned; the resort to compulsory licensing will only take place in accordance with the provisions of the 1971 texts of the Copyright Conventions (if the applicant could not have obtained authorization from the owner of the right or if, after due diligence on his part, he was unable to find him);
8. The guidelines should also deal with the aspects relating to information, as to how and in what form it may be provided, and how it can be used in order to obtain easy and quick access to protected works;
9. Such information should be made available through catalogues, bulletins and bibliographic data and furnished to publishers and concerned government offices in the developing countries on a periodical basis;
10. National bibliographies should be established where these do not exist. Publishers of developed and developing countries should be able to provide lists of their newly published titles which could be used for the purposes of teaching, scholarship or research, preferably with brief summaries of the contents, to publishers as also to the concerned governmental authorities in developing countries; exchange of national bibliographies could usefully be organized; the guidelines should also deal with the practical aspects of dissemination of such information;
11. The national copyright information centers set up or to be set up in developed countries should collect information from publishers in their respective countries as to published works which could be used for the purposes of teaching, scholarship or research and to the extent possible in regard to the terms of transfer of the rights in connection with these titles. They should communicate the information in respect of the latest titles published in the field mentioned above to the governmental authorities as also publishers in developing countries; such information could complement effectively the information already disseminated by the International Copyright Information Centre;
12. When requests for rights of translation and/or reproduction are addressed to the publishers, a copy of such requests should be furnished to the national copyright information center or the governmental authorities in the developed and developing countries concerned;
13. All newly published books should contain on the verso of the title page the name and full address of the publisher and also of the owner of the copyright, if the publisher is not the owner of that right;
14. Publishers, national copyright information centers, competent national authorities in developed countries should seek to assure accurate and up-to-date information concerning licenses and sub-

licenses of rights assigned by language or region be available so as to be able to provide such information to applicants for rights from developing countries in a prompt and complete manner.

15. With a view to facilitating negotiations concerning voluntary copyright licenses, the model contracts already established by Unesco concerning publication of a translation or reproduction of a work or licensing rights in a cinematographic work or in a work with respect to its sound recording could be widely used; if necessary, the Secretariat of Unesco and the International Bureau of WIPO should examine the possibility of elaborating other model contracts concerning fields not yet covered by the existing models;
16. The establishment or strengthening of national publishing industries in developing countries should be encouraged in order to enable publication and distribution of national works and to facilitate local production of copies of works belonging to the international repertoire;
17. It is desirable that close coordination should be maintained at the national, regional and international levels in respect of the activities of various interested organizations such as the copyright administrations, national libraries, centers for book promotion, authors' and publishers' associations, in order to facilitate the obtaining of information necessary for quick access to protected works;
18. Advantage should be taken of the International Book Fairs periodically organized in developed and developing countries to help publishers of developing countries in negotiating for rights of translation and/or reproduction of books needed in their countries in connection with their teaching, scholarship and research requirements;
19. Aid from public and private sources in developed countries to developing countries should be established in order to facilitate access by the latter to works protected by copyright through appropriate means especially of an economic nature (funds for the purpose of acquiring copyright, preferential treatment, programs of cooperation in publishing, etc.);
20. The Secretariat of Unesco and the International Bureau of WIPO shall proceed periodically to evaluate the implementation of these recommendations and will report to the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union, respectively.

Adoption of the Report and Closing of the Meeting

9. The Working Group adopted this report including the above recommendations under the Chairmanship of Mr. N. Ndiaye, unanimously elected ad hoc Chairman for the last part of the closing meeting, the Chairman of the Working Group having had to leave the meeting before its closing. After the usual thanks, the ad hoc Chairman declared the meeting closed.

List of Participants

I. Members of the Working Group

- M. Salah Abada
Directeur général, Office national du droit d'auteur, Alger
- M. Propicio M. Alves
Vice-président, Union internationale des éditeurs, Rio de Janeiro
- Mr. Esteban B. Bautista
Professor of Law
Acting Head, Division of Research and Law Reform, University of the Philippines Law Center (Diliman, Q. C.)
- Mr. El Sayed Mahmoud El-Sheniti
Former Deputy Minister of Culture, Cairo
- M. Mihály Ficsor
Directeur général, Bureau hongrois pour la protection des droits d'auteur, Budapest
- Mr. Lewis Flacks
Special Legal Assistant to the Register of Copyrights, Copyright Office, Washington, D. C.
- Adviser*
Mr. Michael Keplinger
Special Legal Assistant to the Register of Copyrights, Copyright Office, Washington, D. C.
- M. André Kerever
Maître des requêtes au Conseil d'Etat, Paris
- Mr. Devendra Nath Misra
Joint Educational Adviser, Department of Education, Ministry of Education and Culture, New Delhi
- M. Ndéné Ndiaye
Directeur général, Bureau sénégalais du droit d'auteur, Dakar
- Mr. Edmund Brandford Odoi Anim
Barrister-at-Law
Copyright Administrator, Ministry of Information, Accra
- Mr. Victor Tarnofsky
Superintending Examiner, Industrial Property and Copyright Department, Department of Trade, London
- Sr. Juan Manuel Terán Contreras
Director General del Derecho de Autor, Secretaría de Educación Pública, México, D. F.
- Adviser*
Sra. Victoria Alicia Ramírez
Directora de Fomento, Dirección General del Derecho de Autor, Secretaría de Educación Pública, México, D. F.
- Mr. Nicolas Voschinin
Deputy Chairman, Copyright Agency of the USSR (VAAP), Moscow
- Mr. Anderson Ray Zikonda
Registrar of Patents, Trade Marks and Designs, Lusaka

II. Observers

(a) National Copyright Information Centers

France: A. Géranton. **German Democratic Republic:** B. Haid. **Italy:** I. Papini; G. Fonzi; M. Fabiani. **Mexico:** A. Cué Bolaños. **Spain:** E. Nolla López. **United Kingdom:** C. Bradley.

(b) International Non-Governmental Organizations

International Association for the Protection of Industrial Property (IAPIP): G. Gaultier. **International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** J.-A. Ziegler. **International Confederation of Societies of Authors and Composers (CISAC):** J.-A. Ziegler. **International Copyright Society (INTERGU):** G. Halla. **International Federation for Documentation (FID):** H. Arntz. **International Federation of Film Producers Associations (FIAPF):** A. Brisson. **International Federation of Producers of Phonograms and Videograms (IFPI):** P. Chesnais. **International Literary and Artistic Association (ALAI):** A. Françon. **International Music Council (IMC):** J. Masson-Forestier. **International Publishers Association (IPA):** J. A. Koutchoumow. **International Writers Guild (IWG):** E. Le Bris.

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

M.-C. Dock (*Director, Copyright Division*); A. Amri (*Head, International Copyright Information Centre*); A. M. N. Alam (*Legal Officer, Copyright Division*); E. Guerassimov (*Legal Officer, Copyright Division*).

World Intellectual Property Organization (WIPO)

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

ITALY

Ratification of the Paris Act (1971) of the Berne Convention

The Government of the Italian Republic deposited, on August 13, 1979, its instrument of ratification of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

The Paris Act (1971) of the said Convention will enter into force, with respect to the Italian Republic, three months after the date of this notification, that is, on November 14, 1979.

Berne Notification No. 95, of August 14, 1979.

National Legislation

AUSTRALIA

Broadcasting and Television Amendment Act 1977

An Act to amend the Broadcasting and Television Act 1942, and for related purposes

(No. 160 of 1977)

.....

*Amendments of Copyright Act
and Telecommunications Act*

31. The Acts specified in Schedule 2 are amended as set out in that Schedule.

.....

SCHEDULE 2 Section 31

Amendments of Copyright Act 1968

Section 10

(a) In the definition of "holder of a licence for a broadcasting station", after "commercial broadcasting station", insert "or a public broadcasting station".

(b) In the definition of "holder of a licence for a television station", after "commercial television station", insert "or a public television station".

(c) After the definition of "the royalty" insert —
"the Special Broadcasting Service" means the Special Broadcasting Service established by the *Broadcasting and Television Act 1942*;"

Section 91(a) and (b)

After sub-paragraph (i) insert —
“(ia) the Special Broadcasting Service;”.

Section 99

(a) Omit from paragraph (a) "and" (last occurring).

(b) After paragraph (a) insert —
“(aa) the Special Broadcasting Service is the owner of any copyright subsisting in a television broadcast or sound broadcast made by it; and”.

Section 152(1)

After paragraph (a) of the definition of "broadcaster", insert —
“(aa) the Special Broadcasting Service;”.

Section 184(1)(f)

After "Commission,", insert "by the Special Broadcasting Service,".

Section 199(7)(a) and (b)

After "Commission,", insert "by the Special Broadcasting Service, by any person with the use of facilities provided by that Service,".

POLAND

I

Ordinance of the Minister for Culture and the Arts**relating to the rules for the conclusion of contracts and on model contracts concerning composition, first public performance, publication and disclosure of musical works**

(No. 58, of September 18, 1975) *

Pursuant to Article 3(4) of Decree No. 136 of the Council of Ministers of July 10, 1975, on the remuneration of composers (*Monitor Polski*, No. 26, text No. 159), the following Ordinance is issued:

Article 1. There shall be established:

- (i) rules for the conclusion of contracts relating to the publication and disclosure of musical works, arrangements thereof and collections of chosen works, constituting Annex No. 1 to this Ordinance;
- (ii) a model contract on the composition and first public performance of a musical work, constituting Annex No. 2** to this Ordinance;
- (iii) a model contract on the publication and disclosure of a musical work, constituting Annex No. 3** to this Ordinance.

Article 2. This Ordinance shall enter into force on the date of its publication and shall be binding as from August 27, 1975.

Annex No. 1

Rules for the conclusion of contracts on the publication and disclosure of musical works, arrangements thereof and collection of chosen works

1. For the purposes of this Annex,
 - “composer” shall also mean the author of a creative arrangement of a musical work of which he is not the author;
 - “work” shall mean both an original musical work and a creative arrangement of an original musical work;
 - “Decree” shall mean Decree No. 136 of the Council of Ministers, of July 10, 1975, on the remuneration of composers (*Monitor Polski*, No. 26, text No. 159).
- 2.(1) Contracts relating to the publication of a work shall comply with the rules set out hereinafter and with the model contract (Annex No. 3).

* This Ordinance was published in *Dziennik Urzędowy MKiS*, No. 9, of September 19, 1975. It was amended by Ordinance No. 31, of September 29, 1977, published in *Dziennik Urzędowy MKiS*, No. 6/1977. — WIPO translation.

** Annexes Nos. 2 and 3 are not reproduced here.

- (2) Contracts relating to the publication of a work may contain provisions on matters not regulated in the model contract.
- (3) The parties may conclude a contract which excludes all the provisions regarding disclosure of the work abroad provided for in Articles 3(2)(d), 5(4), 9(1), (2) and (3), 10(2) and 21 (as from the words “with the limitation”) in the model contract (Annex No. 3).
- 3.(1) The composer’s remuneration agreed upon in contracts for the publication and disclosure of a musical work shall comprise payment for:
 - (i) the composition or arrangement of the work;
 - (ii) the transfer to the publisher of copyright within the limits set out in the contract;
 - (iii) remitting the manuscript of the work in a form suitable for reproduction;
 - (iv) making the author’s corrections to the material prepared for publication.
- (2) Where the performance of the work requires material additional to the manuscript, e. g., records or tapes, the composer shall be obliged to supply them in return for a single separate remuneration which shall be calculated on the basis of its fabrication cost.
- 4.(1) The amount of remuneration shall comply with the appropriate schedule of remuneration (Annex No. 2 to the Decree).
- (2) If the composer transfers to the publisher the right to sell and hire copies of a published work and provision of orchestral material (Article 3(2)(b) of the model contract) for certain countries only, rates amounting to between 50 to 75 percent of the rates provided for in the schedule of remuneration (Annex No. 2 to the Decree) shall be applied in determining the composer’s remuneration, according to the extent of territorial limitation.
- 5.(1) The remuneration agreed upon in the contract shall apply to the first basic printing of the first edition. Any number in excess of the

- basic printing shall be deemed to constitute the beginning of the following printing, for which appropriate remuneration shall be paid to the composer.
- (2) The remuneration for the second basic printing of original works shall be 80 percent of the remuneration referred to in paragraph (1), for the third basic printing it shall be 60 percent and for the fourth and subsequent basic printings it shall be 50 percent of such remuneration.
 - (3) The remuneration for the second basic printing of arrangements that are to be published shall be 50 percent of the remuneration referred to in paragraph (1), for the third basic printing it shall be 40 percent and for the fourth and subsequent basic printings it shall be 30 percent of such remuneration.
 - (4) The remuneration of the author of a collection of chosen works determined in accordance with the schedules contained in Annex No. 3 to the Decree shall be, for the second edition of a collection of chosen works, 50 percent of the remuneration for the first edition of that collection, 40 percent for the third edition and 30 percent of such remuneration for the fourth and subsequent editions.
- 6.(1) Each basic printing may be effected in a number of series on condition that printing of the last series may not be completed later than two years computed from the day on which the first series has been put on the market. The remuneration for the full basic printing shall be paid within 30 days computed from the date on which the first series of the basic printing was put on the market.
 - (2) Paragraph (1) shall not apply to the publication of works in respect of which a single printing has been agreed.
- 7.(1) Where a single printing has been agreed, the publisher shall determine the number of copies for a given edition. The composer shall be entitled to remuneration for each edition, irrespective of the number of copies, calculated in accordance with Rules 5(2), (3) and (4).
 - (2) Where a given type of work is not listed in the schedule for basic printings (Annex No. 4 to the Decree), the remuneration for a single printing shall be applied in respect of the publication of that work.
8. Editions with text drawn up in foreign languages shall be dealt with in the same way as subsequent separate editions.
 9. When calculating the composer's remuneration for a complete edition of his works, no account shall be taken of the number of basic printings of the individual works constituting the complete edition. One single printing shall be determined for complete editions. In the case of a second or of a subsequent complete edition, the progressively decreasing rates laid down in Rule 5(2) shall be applied.
- 10.(1) The composer's remuneration for the inclusion of a previously published work in a collection of chosen works shall be 50 percent of the appropriate rate applied in the case of a single printing.
In the case of an unpublished work included in a collection of chosen works, the remuneration shall be 100 percent of the appropriate rate for the first edition and shall be 50 percent of that rate for each subsequent edition of the collection.
 - (2) No account shall be taken of editions in a collection of chosen works when determining remuneration for successive basic printings of editions of the work.
- 11.(1) The composer's remuneration for the first basic printing of the first edition of a work in printed form shall be paid as follows:
 - (i) up to 25 percent of the remuneration laid down by the contract, within 15 days of the date on which the contract was signed;
 - (ii) up to 50 percent of the remuneration calculated on the basis of the accepted volume of the work, within 15 days from the date on which the work was accepted, less the advance paid in accordance with (i);
 - (iii) the balance of the remuneration within 30 days of the date on which the work was first put on the market.
 - (2) The publisher may pay the full remuneration for the first basic printing of the first edition within 15 days of the date on which the work was accepted if the remuneration does not exceed 10 000 zlotys.
 - (3) The remuneration for the second basic printing and for subsequent basic printings of the first edition shall be paid within 30 days of the date on which disclosure of the work began.
12. The remuneration for the second and subsequent editions of the work shall be paid in full within 30 days of the date on which disclosure of the work began.
- 13.(1) The number of copies of the work printed in each edition shall be determined by the publisher.

- (2) The publisher shall be required to notify the composer in writing, at the time printing is completed, of the number of copies made of the work.
 - (3) The number of copies and the time required for preparing and copying the materials essential to fully satisfy demands for the performance of the work shall be determined by the publisher in accordance with the needs of disclosure of the work.
- 14.(1) The final calculation of the remuneration shall be based on the volume of the printed text, expressed as units determined in the contract, and, where the work is not printed, on the volume accepted by the publisher.
 - (2) The remuneration for the work shall be calculated by adding the minute fee and the fee for the number of measures.
 - (3) The minute fee shall be calculated by multiplying the duration of the work by the rate for one minute. The rate for one minute shall be due for each minute begun.
 - (4) The remuneration for the number of measures shall be calculated by multiplying the number of measures in the work by the rate for one measure.
 - (5) The remuneration for music without measures shall be calculated by multiplying the minute fee by two.
 15. The publishing contract shall set out the time limit for supplying and accepting the work.
 16. The publisher shall be required to notify in writing to the composer whether the work is accepted or not. Where such notification is not sent within the time limit agreed upon in the contract for accepting the work, the work shall be deemed to have been accepted.
 - 17.(1) The time limit afforded to the publisher for acceptance of the work shall not exceed six months from the day on which the work was supplied.
 - (2) The time limit for accepting a modified work, after inclusion of modifications, shall not exceed one-half of the time limit laid down in the contract for accepting the work.
 - (3) The time limit for accepting the work shall start on the day the whole of the work was supplied to the publisher.

II

Ordinance of the Council of Ministers

relating to the rules for the conclusion of contracts with authors and to the rates of remuneration for literary works and translations commissioned or exploited by the radio and television organizations

No. 114, of September 1, 1978)*

Pursuant to Article 33(1) of the Law of July 10, 1952, on Copyright (Official Journal, 1952, No. 34, text No. 234, and 1975, No. 34, text No. 184), the following Ordinance is issued:

Article 1. This Ordinance shall apply to the conclusion of contracts concerning the writing, or for the exploitation by the radio and television organizations, of literary works and translations, and to the fixing of remuneration for such works.

Article 2. There shall be established:

- (i) general rules for the conclusion of contracts for the writing or for the exploitation of literary works and translations commissioned or exploited by the radio and television organizations (Annex No. 1 to this Ordinance);

- (ii) a schedule of remunerations for literary works and translations intended for radio (Annex No. 2** to this Ordinance);
- (iii) a schedule of author's remunerations for literary works and translations for television (Annex No. 3** to this Ordinance);
- (iv) the model contract for the writing and for the exploitation of a literary work or translation for radio and television (Annex No. 4** to this Ordinance);
- (v) the model contract for the exploitation of a literary work by adaptation (Annex No. 5** to this Ordinance).

Article 3. The President of the Committee for Radio and Television "Polskie Radio i Telewizja" is authorized:

- (i) to complete, in agreement with the Minister for Labor, Salaries and Social Affairs, the

* This Ordinance was published in *Dziennik Ustaw PRL*, No. 25, of October 17, 1978. — WIPO translation.

** Annexes Nos. 2, 3, 4 and 5 are not reproduced here.

schedules of remunerations by the inclusion of works that are not provided for in this Ordinance;

- (ii) to grant — in particular deserving individual cases — increased remuneration to the authors of original works of exceptional ideological or artistic value, provided that such remuneration does not exceed 50 percent of the minimum rates specified in the schedules of remunerations (Annexes Nos. 2 and 3 to this Ordinance).

Article 4. This Ordinance shall enter into force on the day of its publication.

Annex No. 1

General rules for the conclusion of contracts for the writing or exploitation of literary works and translations commissioned or exploited by the radio or television organizations

1. Contracts shall conform to the Ordinance and the model contract.

2. The parties shall be authorized to include additional provisions in the contract that are not at variance with Rule 1 above.

3. The author of a literary work or the translator shall assign to the commissioning party, by virtue of the contract, the exclusive right:

- (i) to fix a literary work or translation, including sounds and pictures, on a carrier, and to make copies of such fixations;
- (ii) to make a multiple, unlimited broadcast, by radio or television or by wire, either live or with the aid of a fixation on a carrier;
- (iii) to exchange the fixed literary work or translation with foreign radio and television organizations;
- (iv) to make multiple copies of texts for the internal use of the commissioning party;
- (v) to effect post-synchronization in languages chosen by the commissioning party;
- (vi) to use:
 - (a) the sound of the recording, either with the picture or separately, in whole or in part, in its original form or adapted, for the purpose of advertising the work, in other works intended for public education or having the character of chronicles, reviews or monographs;
 - (b) fragments that form an independent whole, within the limits specified under (i) to (v).

4. The author's remuneration shall comprise the fee for:

- (i) the writing or translation of the work;
- (ii) the assignment of the rights mentioned in Rule 3, subject to the exceptions specified in Rules 5 and 7.

5. For the second radio and television broadcast on the territory of the country, and for every subsequent broadcast of the works mentioned in Rule 6, the author of a literary work or the translator shall have the right to remuneration in the amount of 50 percent of the remuneration agreed upon in the contract if the work has not been published before the first radio or television broadcast, and with respect to a stage work even if it has been printed in one single issue of the periodical provided for the publication of works of this type, or in a single issue of *Wydawnictwa Radia i Telewizji* [Radio and Television Publications].

6. The provisions of Rule 5 shall apply to the following works:

- (i) original novels, short stories, serialized literary works, poetic works or radio or television programs;
- (ii) texts of monologues, dialogues or sketches and of television programs based on the elements of a literary or advertising work that is not a play or radio program;
- (iii) adaptations of novels or short stories in the form of radio or television programs;
- (iv) translations of novels, short stories or fragments thereof, radio or television programs, plays or poetic works.

7. The author of a literary work or translation shall retain the right to royalties for:

- (i) foreign radio and television broadcasts if they originate with the foreign organization that transmits by virtue of the provisions in force in the place of transmission;
- (ii) national radio and television broadcasts in the case of works not mentioned under Rule 6.

8. The amount of author's remuneration payable to the author of a literary work or to the translator shall be determined within the limits of the rates specified in the schedule of remunerations, due account being taken of ideological and artistic value and the amount of creative effort demanded by the work.

9. The amount of author's remuneration payable to the author of a literary work or the translator of an existing work exploited in the form of a scenario or adaptation for a television or radio program broadcast for the first time shall be:

- (i) 80 percent for the author of a literary work,
- (ii) 50 percent for the translator,

assuming as a basis for calculation the corresponding rates contained in the schedule of remunerations (Annex No. 2 or No. 3 to this Ordinance) and the duration of the actual transmission.

10. The author's remuneration payable to the author of a literary work written in a foreign language and intended for broadcasting in that lan-

guage may be increased by up to 50 percent if the work is written in a language other than the mother tongue of the author.

11. Remuneration for original works in the field of large composite forms and works in instalments, written on commission by two or more authors, may be increased by up to 50 percent.

12. The author's remuneration payable to the author of a literary work consisting of two or more instalments may be established in the form of a lump sum for the whole work; that sum shall not exceed the remuneration established pursuant to Annex No. 2 or No. 3 to this Ordinance.

13. In the case of entitlement under two or more provisions to an increase in remuneration (General Rules 11 and 12 and Article 3(ii) of the Ordinance), the contractual remuneration established according to Annex No. 2 or No. 3 to this Ordinance shall provide the basis for calculation of the increase.

14. The commissioning party may withdraw from the contract if:

- (i) the author of a literary work or the translator does not submit the text by the agreed time limit, or if he does not submit the amended or corrected text by the specified time limit;
- (ii) the work is not accepted.

Where the author of a literary work or the translator does not submit the text by the agreed time limit, he shall be obliged to repay the advance received. In other cases the advance shall not be repayable.

15. The contract shall contain stipulations to the effect that:

- (i) the commissioning party may incorporate in the literary work or translation alterations that are warranted by the requirements of the production and transmission of the radio or television program, except where the author or translator has well-founded reasons for opposing such alterations;
- (ii) Radio and Television Publications shall have a priority right to publish the literary work or translation concerned by the contract and also adaptations made by the author or translator and intended for publication in printed form.

Conventions Not Administered by WIPO

Universal Copyright Convention as revised in 1971

Ratification

DENMARK

The instrument of ratification by Denmark of the Universal Copyright Convention as revised at Paris on July 24, 1971, and annexed Protocols 1 and 2 was deposited with the Director-General of Unesco on April 11, 1979.

Under the terms of its Article IX, paragraph 2, the Convention came into force, in respect of Denmark, three months after the deposit of the instrument of ratification.

With regard to the Protocols, in conformity with their respective paragraphs 2(b), they entered into force, in respect of Denmark, on the same date as the Convention.

General Studies

Legal Problems Deriving from the Use of Videograms

Gillian DAVIES *

Calendar

WIPO Meetings

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

1979

October 22, 23 and 30 (Paris) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)

October 24 to 26 and 31 (Paris) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

November 5 to 9 (Buenos Aires) — Development Cooperation (Copyright) — Latin American Seminar on Copyright (convened jointly with Unesco)

November 26 to December 13 (Madrid) — Diplomatic Conference on Double Taxation of Copyright Royalties (convened jointly with Unesco)

November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software

December 3 to 6 (Geneva) — Working Group on Industrial Property Aspects of Consumer Protection

December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts

1980

January 7 to 9 (Geneva) — Development cooperation (Copyright) — Working Group on the Protection of Folklore (convened jointly with Unesco)

January 28 to February 1 (Paris) — Committee of Experts on the Model Statutes of the Societies of Authors (convened jointly with Unesco)

February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference

UPOV Meetings

1979

November 12 to 14 (Geneva) — Technical Committee

November 15 and 16 (Geneva) — Administrative and Legal Committee

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

Non-Governmental Organizations

1980

International Confederation of Societies of Authors and Composers (CISAC)

Legal and Legislation Committee — March 20 and 21 (Budapest)

Congress — November 3 to 7 (Dakar)

International Publishers Association (IPA)

Congress — May 18 to 22 (Stockholm)