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World Intellectual Property Organization

Working Group on the Support of National Authors and Performers

(Geneva, September 17 to 20, 1979)

Report

prepared by the International Bureau and adopted by the Working Group

Introduction

1. The program approved by the competent organs of the World Intellectual Property Organization provided for a study concerning support of national authors and performers and the action which could be taken in the field of copyright and neighboring rights nationally and internationally in order to encourage creativity in developing countries and for the meeting of a working group to review the study and to make recommendations to the WIPO Permanent Committee. In accordance with this item of the program, the Director General of WIPO convened a working group consisting of experts from fifteen countries who participated in the meeting in a personal capacity. The meeting was also attended, in an observer capacity, by representatives of one intergovernmental and eight international non-governmental organizations.

2. The list of participants is annexed to this report.

Opening of the Meeting

3. The meeting was opened by Dr. Arpad Bogsch, Director General of WIPO, who while welcoming the participants pointed out that they would be deliberating on a matter which concerns all countries but which is of particular importance for the developing countries since these countries have a special need for encouraging the creativity of their authors and the professional activities of their performers.

Election of Chairman

4. The Working Group unanimously elected Mr. Juan Manuel Terán Contreras, Director General del Derecho de Autor, of Mexico, as its Chairman.

General Debate

5. Discussions were based on documents WG/SNAP/I/2 and 3. It was noted that, in response to a request made by the International Bureau for the relevant information, altogether 34 countries (19 developing and 15 developed) had replied. Most of the

replies were accompanied by documentary material. The survey of different kinds of legislative, institutional and contractual arrangements submitted to the Working Group was based not only on these replies but also on other available information.

6. Some members of the Working Group enlarged on the material furnished by their respective countries and provided additional information concerning authors' cooperative societies, tax concessions provided to authors as well as financial assistance and subsidies, etc.

7. The observer from Unesco informed the Working Group of a study undertaken by that Organization in collaboration with the International Labour Office, on the status of the artist. This study has led to the preparation of a draft recommendation on the matter, to be submitted to the General Conference of Unesco in 1980. The observer from Unesco hoped that in the event of its adoption the follow-up in regard to the implementation of its provisions and in respect of the recommendations of the present Working Group will be coordinated between the organizations concerned. The Deputy Director General of WIPO stated that WIPO is willing to study with Unesco the means for ensuring such coordination.

8. The Working Group felt that the problem of support of national authors and performers should be viewed not only from the legal, institutional and contractual angles, but also in the context of the socio-economic, fiscal and technological conditions influencing the development of creative and performing activities, and the public use of works and performances. In any case it felt that WIPO's activities in this field should be extended and continued.

9. After the general debate and detailed discussion on the analysis concerning various aspects of the support of national authors and performers, the Working Group adopted the following recommendations with special regard to the needs of developing countries.

Recommendations

The Working Group convened by WIPO in order to suggest measures to be taken for the support of authors and performers which met in Geneva from September 17 to 20, 1979:

Considering that without prejudice to the freedom of creation and the necessary dissemination of works in order to promote and facilitate interchange of ideas and literary and artistic works, as also the promotion of the performing arts, and taking into account the legal principles laid down in the multilateral conventions which recognize protection of copyright and neighboring rights, the creativity of national authors and performers should be encouraged by all means,

Considering that the basis of support of national authors and performers lies, inter alia, in appropriate legal provisions safeguarding their interests corresponding to the requirements as set forth in the multilateral copyright treaties, among them the Berne Convention for the Protection of Literary and Artistic Works, and in the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations,

Considering that the authors' societies and organizations have an important role to play in the support and promotion of creativity of their members,

Considering that the collective administration of rights is essential when there is a multiplicity of works, of uses and of users and, therefore, when the authors are unable to ensure effective safeguard of their rights individually, mainly in the case of musical performing rights and mechanical rights,

Considering that the collective administration of authors' rights as well as performers' rights is necessary to deal with all tasks involved, such as centralized conclusion of licensing agreements, collection and distribution of authors' and performers' fees, etc.,

Considering that assistance to authors would help in disseminating awareness, knowledge and expertise in respect of information concerning the legal, institutional and contractual structure of protection of their rights,

Considering the role of performers in the dissemination of works and the desirability of safeguarding and promoting the interests of performers and of ensuring their socio-economic well-being.

Recommends that:

- (i) all countries which do not as yet have appropriate laws for the protection and promotion of authors' interests should undertake the necessary steps in order to provide for such legislation as soon as possible;
- (ii) copyright legislation should also contain provisions concerning the main aspects of the use of the authors' works, with special regard to publication, performance, cinematographic adaptation, broadcasting and cable distribution of their works;
- (iii) all measures should be taken to ensure full implementation of the laws in this field and governments should take necessary steps for removing obstacles in effective implementation of such laws;

- (iv) all countries which consider that the protection of performers through neighboring rights provisions is in furtherance of their interests, and which have not so far provided for appropriate legislation concerning such protection related to the use of their performances and exercise of performing activities, should do so at the earliest. National legislation of such countries should consider the requirements provided for in the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, both as regards the possibilities of the use of performances, as also of remuneration therefor. Legal, economic and social measures should be taken to remedy the consequences for the performers in respect of the technological developments of the means of reproduction of their performances;
- (v) countries which have not yet done so should, according to their particular socio-economic requirements and with the assistance of WIPO on a priority basis whenever so requested, initiate the creation of authors' societies or establish governmental offices or other authors' organizations functioning under governmental supervision for the administration of authors' rights;
- (vi) collective administration of authors' rights should be encouraged not only in the case of administration of musical performing rights and mechanical reproduction rights but also as regards all rights where collective administration seems to be appropriate such as dramatic rights, cinematographic rights, reprographic reproduction rights, rights related to the cable distribution of television broadcasts, etc.;
- (vii) the conditions of collective licensing should be guaranteed by legislative or contractual means, as deemed appropriate in the circumstances of each of the countries concerned;
- (viii) countries should promote the organized assistance (by government agencies, authors' societies, literary agencies, etc.), to authors and performers in the conclusion by them of individual contracts for the use of their works and performances other than works covered by collective administration, when negotiating with users both at home and abroad;
- (ix) where performers' rights have been granted by the law:
 - independent appropriate organizations should be established for the administration of these rights,
 - provision should be made to ensure payments for the use of performances and for determining the share of performers in fees paid for broadcasting or communication to the public of fixations of their performances which have been recorded for commercial distribution for private use of the reproduced copies of the fixation,
 - provision for an equitable share of the remuneration between performers and producers of phonograms should be made where the latter participate in this remuneration;

- (x) national legislations should also contain provisions for rules governing contracts for the use of performances;
 - (xi) measures should also be undertaken to ensure proper administrative functioning of the respective bodies by suitably trained professionals; the appropriate training should be part of the training program of WIPO;
 - (xii) the freedom of contracting should be exercised within the guarantees laid down by the law and should also be supported by supplementary legal provisions regarding the applicable rates in accordance with the generally accepted practice in specified cases. In addition, the contractual relations of authors and performers with users of their works and performances should also be assisted, where appropriate, by model agreements to be elaborated with reference to the generally prevailing practice and the experience of authors and users and their organizations;
 - (xiii) countries should consider provisions for the application of general or special insurance schemes of a public or private nature to authors and performers in a way best corresponding to their socio-economic conditions. Such insurance schemes should cover sickness, accidents, pensions, etc. Societies and other organizations of authors and performers should promote and support such measures and also provide for means of supplementary aid wherever appropriate. Each country should examine its possibilities to cope with the requirements concerning insurance of authors and performers according to its national traditions by establishing appropriate funds or by means of other institutional arrangements;
 - (xiv) other means of support of national authors and performers should be developed so as to stimulate national creativity and artistic perfection in consonance with the respective socio-economic and national requirements. These means could, inter alia, include:
 - the organization of competitions and award of prizes for works;
 - the establishment as appropriate of “centers” with duly equipped library and other material facilities to help authors to create works under favorable circumstances;
 - the grant of subsidies to authors to encourage writing and creativity;
 - the grant of lump-sum allocations or credits to cover authors’ expenses in the course of such creation and to improve their working conditions;
 - the commissioning of works by the State or appropriate public or private institutions;
 - the granting of fellowships for professional training of performers;
 - subsidies given for the benefit of authors to users of authors’ works and institutions organizing performances;
 - the organization of exhibitions of works of national authors and staging of plays on tours by national performers, at home and abroad;
 - encouraging of talent from a young age by all means and improving the state of professional education by establishing appropriate schools and institutions and providing for suitable financial assistance for participation in such education and training, etc.
10. In addition to the foregoing recommendations, the Working Group felt that, in view of the accelerated development of techniques for the creation and distribution of works and performances, it is imperative for the effective protection of copyright and of neighboring rights that, in the formulation and implementation of the recommended measures as well as in the promotion of laws and institutions concerned with this matter, the interested individuals, bodies and organizations, both at the national and international level (including the representative bodies of authors and performers), should foresee their future problems in advance and should actively promote alternative solutions at the legislative, institutional and contractual levels, in order to preserve effectively the strict compliance of the rights and obligations both individual and general which are implied in copyright, neighboring rights and the social interest in the promotion of literary, artistic and scientific creativity.
11. To that end the Working Group was of the view that it is advisable to continue and expand the work of the WIPO Permanent Committee in order to augment and support measures that could be taken nationally or internationally, with a view to encouraging creativity in developing countries.
12. Consequently, the Working Group expressed the wish that another meeting should be convened to further study certain aspects of these recommendations, particularly in respect of the practical means by which the societies or organizations administering the rights of authors and performers could help them to draw the maximum benefit from copyright and neighboring rights protection in their countries and in foreign countries.
- Adoption of the Report and Closing of the Meeting**
13. After the adoption of this report and after the usual thanks, the Chairman declared the meeting closed.

List of Participants

I. Members of the Working Group

- Prof. A. Chaves
Catedrático de Direito Civil, Director da FD da USP, Presidente do Instituto Interamericano de Direito de Autor (IIDA), São Paulo, Brazil
- Sra. Milagros del Corral Beltran
Jefe del Gabinete Técnico, Ministerio de Cultura, Madrid, Spain
- Dr. M. Ficsor
Director General, Hungarian Bureau for the Protection of Copyright (Artisjus), Budapest, Hungary
- Mr. M. J. Freegard, FCIS
General Manager, Performing Right Society Ltd. (PRS), London, United Kingdom
- Mr. T. Koyama
Director, Copyright Division, Agency for Cultural Affairs, Tokyo, Japan
- M. M. Loutfi
Directeur général et Conseiller juridique, Société des auteurs, compositeurs et éditeurs (SACERAU), Le Caire, Egypte
- Dr. D. N. Misra
Joint Educational Adviser, Ministry of Education and Social Welfare, New Delhi, India
- M.N. Ndiaye
Directeur général, Bureau sénégalais du droit d'auteur (BSDA), Dakar, Sénégal
- Mr. A. H. Olsson
Legal Adviser, Ministry of Justice, Stockholm, Sweden
- M. A. Ouattara
Conseiller technique, Ministère des affaires culturelles, Abidjan, Côte d'Ivoire
- Mrs. N. Razina
Vice Director, Legislation Office, Legal Department, VAAP, Moscow, USSR
- Mr. H. G. Shore
Principal Legal Officer, Intellectual Property and Industrial Law Branch, Attorney General's Department, Parkes, Australia

Lic. J. M. Terán Contreras
Director General, Dirección General del Derecho de Autor, México

Adviser
Sra. A. Reyes
Jefe del Departamento de Programas de Promoción de la Dirección General del Derecho de Autor, México

M. J. L. Tournier
Directeur général, Société des auteurs, compositeurs et éditeurs de musique (SACEM), Neuilly/Seine, France

Mr. W. Vitug
Administrative Officer, The National Library, Manila, Philippines

II. Observers

(a) Intergovernmental Organization

United Nations Educational, Scientific and Cultural Organization (UNESCO): A. Amri; A. Pokrovsky.

(b) International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé. **International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** P. Liechti. **International Confederation of Societies of Authors and Composers (CISAC):** P. Liechti; M. Segretin. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** R. Leuzinger. **International Federation of Musicians (FIM):** R. Leuzinger. **International Federation of Producers of Phonograms and Videograms (IFPI):** E. Thompson. **International Publishers Association (IPA):** J. A. Koutchoumow.

III. International Bureau of 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*).

INDONESIA

Ratification of the WIPO Convention

The Government of the Republic of Indonesia deposited, on September 18, 1979, its instrument of ratification of the Convention Establishing the World Intellectual Property Organization (WIPO).

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

respect to the Republic of Indonesia, three months after the date of deposit of its instrument of ratification, that is, on December 18, 1979.

WIPO Notification No. 107, of September 20, 1979.

URUGUAY

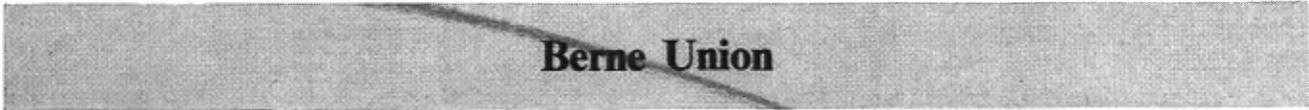
Accession to the WIPO Convention

The Government of the Eastern Republic of Uruguay deposited, on September 21, 1979, 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 the Eastern Republic of Uruguay, three months after the date of deposit of its instrument of accession, that is, on December 21, 1979.

WIPO Notification No. 108, of September 28, 1979.

**Berne Union**

URUGUAY

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

The Government of the Eastern Republic of Uruguay deposited, on September 21, 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 Eastern Republic of Uruguay, three months after the date of this notification, that is, on December 28, 1979.

Berne Notification No. 96, of September 28, 1979.

National Legislation

COLOMBIA

Decree assigning responsibility for the Register of Intellectual Property to the Colombian Institute of Culture

(No. 547, of March 9, 1979)*

Article 1. The registration of the intellectual property of artistic, scientific and literary works shall be effected by the *Instituto Colombiano de Cultura* [Colombian Institute of Culture] through the National Library, which entity shall be provided with the appropriate registers by the Ministry of the Interior.

The deposit of one of the copies of the printed work to be registered shall continue to be effected at the Ministry of the Interior, without prejudice to the obligation to deposit three copies, one with the Na-

* Published in the *Diario Oficial*, No. 35240, of April 16, 1979. — WIPO translation.

tional Library, one with the Library of the National University and one with the *Instituto Caro y Cuervo*, in accordance with the provisions of Article 76 of Law No. 86 of 1946 and of Decree No. 2840 of 1961.

Article 2. The registration of titles or names of periodicals, reviews, broadcasts, radio programs and other communication media shall continue to be effected at the Ministry of the Interior.

Article 3. This Decree shall enter into force sixty (60) days after the date of its promulgation.**

** Decree No. 1389 of June 11, 1979, postponed the date of entry into force of this Decree to January 1, 1980.

JAPAN

Law for Partial Amendment of the Copyright Law

(No. 49, of May 18, 1978)

The Copyright Law (No. 48, of 1970)* shall be partially amended as follows:

In Article 7, item (ii), the words "each item" shall be replaced by the words "item (i) or (ii)."

In Article 8, the following new item shall be added at the end:

"(iii) phonograms not falling within those mentioned in the preceding two items, to which Japan has the obligation to grant protection under an international treaty."

In Article 96, the following new paragraph shall be added at the end:

"(2) The provision of the preceding paragraph shall not apply to the reproduction, made of the phonograms mentioned in Article 8, item (iii), which is not intended for the purpose of distribution."

In Article 97, paragraph (1), the words "(in which neighbouring rights subsist)" shall be replaced by the words "(which are mentioned in Article 8,

item (i) or (ii) and in which neighbouring rights subsist)."

In Article 102, paragraph (4), the words "Article 96" shall be replaced by the words "Article 96, paragraph (1)."

Supplementary Provisions

(Date of Enforcement)

1. This Law shall come into force as from the day on which the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms becomes effective with respect to Japan. **

(Transitory Measures)

2. The provisions relating to neighbouring rights of the amended Copyright Law shall not apply to the phonograms, mentioned in Article 8, item (iii), of the amended Copyright Law, which are composed of the sounds first fixed before the enforcement of this Law.

* See *Copyright*, 1971, p. 71.

** This Law came into force on October 14, 1978.

POLAND

I

Ordinance of the Council of Ministers**relating to the rules for the conclusion and execution of contracts for publishing works in book form and to the rules and rates of remuneration for such works**

(No. 8, of January 19, 1979) *

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 for publication in book form of works in the field of belles lettres, scientific literature and scientific popularization, journalistic literature, professional literature and handbooks, encyclopedias and dictionaries, concluded by Polish publishers with authors having their domicile in Poland. This Ordinance shall also apply when the rates for the author's remuneration in respect of such works are laid down.

Article 2. There shall be established:

- (i) a schedule of author's remuneration, constituting Annex No. 1** hereto, hereinafter referred to as "the schedule."
- (ii) a model publishing contract, constituting Annex No. 2** hereto, hereinafter referred to as "the model contract."

Article 3. A contract for the publication of a work, referred to in Article 1 and hereinafter referred to as "the contract," may contain provisions on matters not regulated by this Ordinance, subject to Article 33(2) of the Law of July 10, 1952, on Copyright (Official Journal, 1952, No. 34, text No. 234, and 1975, No. 34, text No. 184).

Article 4. (1) The author's remuneration agreed in the contract shall comprise the fees due for:

- (i) the writing or translation of a work,
- (ii) the transfer of the right to publish the work within the limits fixed by the contract,
- (iii) the preparation of instructions concerning illustrations for the work or the design of the illustrating material,
- (iv) the judging of illustrations not made by the author himself,
- (v) the author's corrections to the proofs.

(2) The author's remuneration agreed in the contract may also comprise the fees due for:

- (i) the production by the author of illustrations for his work, which constitute an integral part of that work, and for the transfer of the right to publish those illustrations, save for illustrations to which the provisions on remuneration for the publishing of graphic, cartographic or photographic works apply,
- (ii) the production of the sketches of illustrations made by another creator, and for the grant of authorization to exercise the derived copyright as regards the publishing of such illustrations.

(3) The remuneration for the illustrations and for the sketches referred to in paragraph (2) shall be determined by including their volume, expressed as author's sheets, in the volume of the work and by applying the principles and rates of remuneration agreed in the contract, except that the remuneration for the sketches of the illustrations shall be a single remuneration and its amount shall be that of the first basic printing, with the exception of sketches for picture books, children's toys and strip cartoons.

Article 5. Independently of the remuneration referred to in Article 4, the author shall be entitled to once-only remuneration agreed in a separate contract, in accordance with the principles and rates stipulated in the provisions on remuneration for publishing work, for making his choice of the illustrations for his own work.

Article 6. (1) The rate of remuneration agreed in the contract in accordance with the schedule shall apply to the first basic printing of the first edition, unless otherwise provided for in the Ordinance.

(2) Remuneration for the second basic printing shall be 80 % of the remuneration referred to in paragraph (1), 60 % for the third basic printing and 30 % for the fourth and subsequent basic printings, unless otherwise provided for in the Ordinance.

(3) Any exceeding of the basic printing shall be considered to be the beginning of the following printing.

* This Ordinance was published in *Dziennik Ustaw PRL*, No. 3, of February 20, 1979. — WIPO translation.

** Annexes Nos. 1 and 2 are not reproduced here.

(4) The rules for calculating the remuneration contained in paragraph (2) shall be applied subject to the order of basic printings and taking into consideration such printings in all previous editions of the work published subsequent to July 22, 1944.

(5) Where the basic printing has been agreed as a single printing, it shall comprise all copies of the work printed in a given edition.

Article 7. (1) The value of the work and the creative effort it has required shall be taken into consideration when the author's remuneration is laid down.

(2) The rate agreed in the contract for determining the remuneration may be increased by the publisher after the acceptance of the work, within the limits provided for under heading 5 of the schedule, if it is established that the rate agreed does not correspond to the contribution in work and to the superior value of the work, even if the volume of the work is less than the volume agreed in the contract.

(3) In exceptional cases the publisher, after accepting the work, may apply the rate provided for under heading 6 of the schedule if the work demonstrates exceptional qualities for a given type of creation (ideological, artistic, scientific, popularizing, etc.).

(4) Where a contract is concluded for the writing of a work in a foreign language which is to be published in that language, the parties may agree on a rate 30% above the maximum rate provided for under the corresponding item of the schedule.

(5) Where works specified under items 28, 30-36, 38-40, 43 and 44 of the schedule are accepted and whose volume is greater than that agreed in the contract, the remuneration applied for the first edition of a part of the work exceeding the volume agreed for that work shall be calculated using the minimum rate provided for in the schedule for the appropriate type of creation.

Article 8. (1) Where certain parts of the work require rates provided for under different items in the schedule to be applied, the rate provided for under the appropriate items of the schedule shall be applied to each of such parts.

- (2) Paragraph (1) shall not apply to:
- (i) manuals,
 - (ii) picture books, children's toys and strip cartoons,
 - (iii) commentaries, annotations, biographies, introductions, prefaces and postfaces, if their author is also the author of the work written in prose for which they have been prepared,
 - (iv) where the total volume of the various texts — with the exception of the poetic texts — is less than 5% of the volume of the work and where such texts are dispersed.

(3) In the case of a work in which texts by different authors are quoted, the remuneration of the author of the work shall be determined by applying the rate provided for under the appropriate item of the schedule for collections of selected pieces, taking into consideration the basic printing and the appropriate degressive rates for the work in which the texts have been quoted.

(4) In the case of poetic works or of parts of such works quoted in a work written in prose, the author's remuneration shall be determined by applying:

- (i) paragraph (1) to determine the rate of remuneration,
- (ii) to determine the basic printing, the rule that where the total volume of poetic texts does not exceed 25% of the volume of the work written in prose, the appropriate basic printing for such a work shall be applied.

(5) Paragraphs (1), (2) and (4) shall apply to original works and to translations.

Article 9. (1) The final calculation of the remuneration shall be based on the volume of the printed text and on the volume of the printed illustrations, referred to Article 4 (2), expressed in author's sheets. In cases where a work, or part of a work, is not printed, the final calculation of the remuneration shall be based on the volume accepted by the publisher.

(2) An author's sheet shall comprise 40 000 typographical characters, 700 lines of poetry, 800 lines used as a unit of calculation (each comprising 50 typographical characters) or 3 000 square centimeters of illustration.

Article 10. (1) For the first edition of works specified under items 31-33, 35, 37, 38, 43 and 44 of the schedule, the parties may lay down a lump-sum remuneration in the contract. Article 7 (2) to (5) and Article 9 (1) shall not apply for determining the lump-sum remuneration.

(2) The lump-sum remuneration referred to in paragraph (1) shall be determined in accordance with the volume of the work specified in the contract and in accordance with the abstract of the work approved by the publisher, as well as according to the principles and rates of remuneration appropriate to the respective parts of the work.

(3) Where lump-sum remuneration, as referred to in paragraph (1), has been agreed in the contract, the basic printing appropriate to the major part of the work shall apply for the entire work.

(4) After accepting the work, the publisher may increase the lump-sum remuneration agreed in the contract if the remuneration is too low in comparison to the author's work contribution and the exceptional value of the work, and if the volume of the accepted

work does not exceed the volume laid down in the contract. The increased remuneration may not exceed the lump-sum remuneration for the work, calculated for the accepted volume in accordance with the maximum rates provided for under headings 5 and 6 of the respective items of the schedule.

Article 11. (1) The remuneration for the manuals referred to under items 41 and 42 of the schedule shall be determined as a function of the number of hours of teaching laid down in the applicable school curriculum. In justified cases, and taking into account the specific degree of difficulty and the high didactic value of the manual, the publisher shall be authorized, after accepting the work, to increase the remuneration agreed in the contract by up to 25 %.

(2) The remuneration for:

- (i) experimental manuals shall be determined in accordance with items 41 and 42 of the schedule with the possibility of applying the remuneration laid down for the following group on the basis of a different number of hours of teaching;
- (ii) manuals for higher education shall be determined by increasing by 100 % the relevant remuneration provided for under items 41 and 42 of the schedule.

Remuneration for the second and subsequent editions of such manuals shall be determined by applying Article 6.

(3) The lump-sum remuneration for the authors of manuals shall comprise the remuneration referred to in Articles 4 and 5.

(4) Where a work has been approved by the Ministry of Public Education for school reading and is published in the form of a book specially adapted for that purpose, the basic printing of the work shall be five times the basic printing laid down for a given type of creation. In calculating the remuneration for the publication of the work for school reading, no account shall be taken of the number of printings in previous ordinary editions of the work.

(5) Article 7(4) shall not apply when the author's remuneration is determined for manuals and auxiliary books referred under items 41 to 44 of the schedule for experimental manuals and for manuals for special public education.

Article 12. (1) When calculating the remuneration of the author of an original work in respect of the collective edition of works of a given author, the number of printings of each of the works comprised in the collective edition shall not be taken into account. The basic printing of the collective edition shall be treated as a single printing. Article 6 shall apply to a second or subsequent collective editions.

(2) The author's remuneration for the insertion of a published work or part of such a work in an

anthology, or in a collection of chosen pieces of a number of authors, shall be calculated for each edition on the basis of 50 % of the rate provided for under the appropriate item in the schedule for a given work and on the basis of a single printing. Where a hitherto unpublished work is included in an anthology or collection of chosen pieces, the remuneration shall be determined on the basis of 100 % of the remuneration due for the first basic printing in accordance with the appropriate item in the schedule, and 50 % for the remainder of the single printing of such edition and for each subsequent edition.

(3) The author's remuneration for the inclusion of works by a given author or part of such works in a collection of chosen pieces containing exclusively works by that author shall be calculated on the basis of Article 6.

Article 13. The remuneration of the author of an arrangement of a text of the type referred to in items 21, 22 and 23 of the schedule, for the use of such texts in a different edition, shall be determined for each edition on the basis of 10 % of the lowest rate laid down in items 21, 22 and 23, respectively, of the schedule, and on the basis of a single printing.

Article 14. The determination of the remuneration for texts included in albums shall be based on basic printings twice as big as those laid down under the appropriate items in the schedule for a given type of creation. A single printing shall be the basis for texts included in calendars.

Article 15. (1) The author's remuneration for publication of the translation of a work in a foreign language shall be determined on the basis of:

- (i) the rate of remuneration in accordance with the appropriate item in the schedule;
- (ii) a single printing, with the exception of works in the field of belles lettres and scientific literature in respect of which publication is based on the basic printings appropriate to these types of creation;
- (iii) Article 6.

(2) The order of editions or basic printings shall be determined exclusively on the basis of the editions of the work translated into foreign languages irrespective of the language in which they have been published. When the order of basic printings for editions of the work in Polish is determined, no account shall be taken of editions of the work in translation.

(3) Where a book contains the text of a work in more than one language, the author shall receive remuneration for the text in one language only. However, if one of those languages is Polish, the author shall receive remuneration for the text in Polish.

Article 16. For the translation of linguistic vestiges, works written in regional and local dialects,

dead languages or Afro-Asian languages, or for translation into such languages, the translator shall receive an additional single remuneration laid down in the contract, amounting to between 10% and 30% of the remuneration for the first basic printing. Such remuneration shall be paid after acceptance of the work.

Article 17. For carrying out modifications (corrections, cuts, additions) in the second edition of a work and in subsequent editions, the author shall be entitled to a single separate remuneration, the amount of which shall be agreed with the publisher and commensurate with the extent of the contribution.

Article 18. (1) The author's remuneration for the first basic printing of the first edition shall be paid in the following manner:

- (i) 25% of the remuneration laid down in the contract within 15 days of the date of signing the contract;
- (ii) up to 90% of the remuneration calculated on the basis of the accepted volume of the work within 15 days of the date of acceptance of the work, after deduction of the advance paid in accordance with subparagraph (i);
- (iii) the remainder of the remuneration within 30 days of the date on which the work was put on the market.

(2) The publisher may pay the author the full remuneration for the first basic printing of the first edition within 15 days of the date of acceptance of the work the volume of which may comprise up to four author's sheets of prose or up to 200 lines of poetry.

(3) The author's remuneration for the second basic printing of the first edition and for subsequent basic printings shall be paid within 30 days of the date on which the work is put on the market.

(4) The author's remuneration for the second edition of the work and for subsequent editions shall be paid in the following manner:

- (i) where a work is published without modification, 90% of the remuneration calculated for the first basic printing of the edition within 15 days of the date of signature of the contract; the remainder of the remuneration within 30 days of the date on which the work is put on the market;
- (ii) subparagraph (i) shall also apply, as appropriate, to the incorporation of modifications in the text before a new edition is produced.

Article 19. (1) Each basic printing may be printed by the publisher in series, with the proviso that the printing of the last series of a given edition

may not take place after two years have passed since the day on which the first series was put on the market. Remuneration for the entire basic printing shall be paid by the publisher within 30 days of the date on which the first series of a given basic printing has been put on the market.

(2) Paragraph (1) shall not apply where a single printing has been fixed for a given work.

Article 20. The contract shall lay down the time limits for the author to submit the whole of the work, for the acceptance of the work and for the completion of printing of the work by the publisher.

Article 21. (1) Where the author does not submit the work within the agreed period of time, the publisher may withdraw from the contract after having allowed the author an additional period of time for submitting the work, and advising the author that he will withdraw from the contract if that period of time expires without result. The publisher shall be required to notify in writing his withdrawal from the contract or the granting of an additional period of time.

(2) Where the publisher withdraws from the contract by reason of the failure to submit the work within the agreed period of time, the author shall be required to refund to the publisher the advance he has received.

Article 22. The publisher shall be required to notify the author in writing of the acceptance or non-acceptance of the work or of the fact that acceptance of the work is conditional on the author carrying out modifications to the text and to the illustration material specified by the publisher, within a period of time laid down by the latter. Failure to send such a communication within the period of time agreed in the contract for the acceptance of the work shall be deemed to constitute acceptance of the work.

Article 23. (1) The period of time laid down for acceptance of the work by the publisher, or for establishing that acceptance is subject to modifications being made to the work, may not exceed:

- (i) six weeks for poetry and for prose in the field of belles lettres and of current affairs literature having a social and political nature, where such works do not exceed ten author's sheets, and one additional month for each part of ten author's sheets begun in cases where the volume of the work exceeds ten author's sheets;
- (ii) six months for all other works except school books, whose volume does not exceed 30 author's sheets;
- (iii) nine months for school books and other works whose volume exceeds 30 author's sheets.

(2) Where modifications are made to the work by the author, the period of time provided for the acceptance of the modified work may not exceed one-half of the period laid down in paragraph (1).

(3) The period of time permitted for acceptance on a work shall be calculated from the day on which the whole of the work is submitted to the publisher by the author. This shall also apply, as appropriate, to the case referred to in paragraph (2).

Article 24. (1) Where a work is not accepted by the publisher, where the author refuses to carry out modifications to the work specified by the publisher or where the author does not carry out such modifications within the prescribed period of time, the publisher may withdraw from the contract with the proviso, however, that the initial advance amounting to 25 % of the remuneration calculated on the basis of the volume of the work shall not be subject to reimbursement.

(2) At the request of the author, the publisher shall be required to give reasons for the non-acceptance of the work.

Article 25. (1) The publisher shall be entitled to make any modifications to the work which are necessary for editorial purposes.

(2) Once the proofs have been corrected by the author, modifications of the type referred to in paragraph (1) may only be made by the publisher after consultation of the author.

Article 26. (1) The period of time laid down for printing a work may not exceed:

(i) two years for the printing of scientific works;
 (ii) one year for the printing of all other works,
 from the day the work is accepted by the publisher, with the exception of school textbooks, for which the period shall be calculated from the day on which the publisher receives approval from the competent higher authority of the State Administration.

(2) Where the printing of a work requires an exceptionally large amount of editorial or technical work, the parties may agree on a different period of time for completion of the printing.

Article 27. (1) Where the printing of a work is not completed within the agreed period of time, the publisher shall be required to pay to the author, within fifteen days following expiry of that period of time, the remainder of the remuneration for the first basic printing of a given edition. In such cases, the author may not, without prejudice to his right to full remuneration, withdraw from the contract until the expiry, without result, of an additional period of time of at least one year accorded to the publisher to complete the printing.

(2) If, after the printing has been completed within the agreed period of time, the publisher does not, within one month, put the work on the market, he shall be required to pay the author the remainder of the remuneration within 15 days following expiry of that period of time. In such case, the author may withdraw from the contract, but only after the expiry, without result, of an additional period of time of at least one year, accorded to the publisher to proceed with the disclosure of the work.

Article 28. Where the subject of a publishing contract is the publication of a work for which the author has already obtained, despite the work not having been published, full remuneration under a contract concluded with the same publisher or with another publisher, the author shall be entitled to 50 % of the remuneration for the first basic printing of that edition. The decreasing rates, laid down under Article 6 and calculated on the basis of 100 % of the remuneration, shall be applied to the second basic printing and to any subsequent basic printings.

Article 29. (1) The provisions concerning the contractual penalties laid down for cases where the author does not submit the work within the agreed period of time or does not make the modifications specified by the publisher, may be included by the latter in publishing contracts concerning any of the following types of works:

- (i) introductions, prefaces, postfaces, commentaries, annotations, indexes, bibliographical lists;
- (ii) school textbooks;
- (iii) other works which, to achieve their purpose, must be published within a specified period of time.

(2) The amount of the contractual penalty shall, in the cases referred to in paragraph (1), be 0.2 % for each day of delay, on the basis of the author's remuneration for a basic printing, not exceeding, however, 20 % of such remuneration.

Article 30. The Minister for Culture and the Arts shall be authorized:

- (i) to supplement the schedule of author's remuneration by introducing new types of works;
- (ii) to accord publishers, in specific justified cases, authorization to apply rules for calculating rates of remuneration, and for concluding and implementing contracts, other than those laid down in this Ordinance.

Article 31. (1) This Ordinance shall apply to contracts for the first edition and for subsequent editions of works concluded after January 1, 1979.

(2) This Ordinance shall also apply, with the consent of the parties, to contracts for the publication of school textbooks for general education subjects concluded prior to January 1, 1979.

Article 32. The Order of the Council of Ministers of September 9, 1972, concerning the principles and rates of remuneration of authors and the conclusion and execution of contracts for the publishing of

works in book form (Official Journal, 1972, No. 40, text No. 259) is hereby repealed.

Article 33. This Ordinance shall enter into force on the day of its publication.

II

Ordinance of the Council of Ministers

relating to the rules for the conclusion of contracts for the writing, translation and public performance of stage works and the rules and rates of remuneration for such works

(No. 9, of January 19, 1979)*

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. The provisions of this Ordinance shall be applicable to the conclusion of contracts for the writing, translation and public performance of stage works, and to the fixing of the remuneration for such works, with the exception of state works commissioned or exploited by the radio and television organizations.

Article 2. There shall be established:

- (i) rules for the conclusion of contracts for the writing, translation and public performance of stage works, and rules for the fixing of the remuneration for such works (Annex No. 1 to this Ordinance);
- (ii) a schedule of remuneration for the writing and translation of stage works (Annex No. 2** to this Ordinance);
- (iii) a schedule of remuneration for the public performance of stage works (Annex No. 3** to this Ordinance);
- (iv) a model contract for the writing, translation and public performance of stage works (Annex No. 4** to this Ordinance).

Article 3. The Minister for Culture and the Arts is hereby authorized:

- (i) to complete, acting with the Minister for Labor, Salaries and Social Affairs, the schedules of remuneration constituting Annexes Nos. 2 and 3 to this Ordinance by the introduction of new types of works;
- (ii) to grant, in particularly deserving individual cases, authorizations for the application of increased rates of remuneration, provided that

the increase in the rate of remuneration may not exceed 50% of the minimum rates laid down in the schedule of remuneration constituting Annex No. 2 to this Ordinance.

Article 4. (1) This Ordinance shall be applicable to contracts concluded after January 1, 1979.

(2) This Ordinance shall enter into force on the day of its publication.

Annex No. 1

Rules for the conclusion of contracts for the writing, translation and public performance of stage works and the fixing of remuneration for such works

1. A contract for the writing, translation and public performance of a stage work, hereinafter referred to as "the contract," shall be set down in writing.

2. Any amendment to the contract shall also be set down in writing.

3. The contract may contain clauses on matters that are not specified in the model contract, subject to Article 33(2) of the Law of July 10, 1952, on Copyright (Official Journal, 1952, No. 34, text No. 234, and 1975, No. 34, text No. 184).

4. The amount of author's remuneration shall be determined according to the rates specified in the schedule of remuneration for the writing and translation of stage works, due account being taken of the value of the work and the creative effort that it requires.

5. Higher remuneration, within the limits of the rates in the schedule of remuneration for the writing and translation of stage works, may be fixed:

- (i) for works that are particularly important with respect to the interest they represent for culture;
- (ii) for the works of authors whose writing is universally recognized;

* This Ordinance was published in *Dziennik Ustaw PRL*, No. 3, of February 20, 1979. — WIPO translation.

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

(iii) for translations of works of superior literary value and for particularly difficult translations.

6. The amount of remuneration for a work that is not in the nature of a full-scale show shall be fixed at one-half or one-third of the amount at the rate specified in the schedule of remuneration for the writing and translation of stage works for a given type of work, depending on its duration.

7. Remuneration for the texts of announcers may be fixed according to the rates of the schedule of remuneration for the writing and translation of stage works, provided that the texts in question have literary value.

8. The amount of the remuneration specified in the contract may, after acceptance of the stage work, be increased by the person who commissioned the said work within the limits of the rates specified under the item appropriate to the type of work in the schedule of remuneration for the writing and translation of stage works, where it is found that the agreed rate does not correspond to the effort contributed by the author and the superior value of the work.

9. Where a work enjoying copyright protection is adapted or translated, the sharing of the remuneration for the public performance of the work shall be determined by the author and the adapter or by the author and the translator within the framework of the rate specified for a given type of work in the schedule constituting Annex No. 3 to this Ordinance.

10. The rates specified in the schedule of remuneration for the public performance of stage works shall be applicable to works that are not in the nature

of full-scale shows, depending on the duration of the latter.

11. The amount of the remuneration for the public performance of small-scale stage works and the texts of songs shall be calculated according to the duration of the works concerned.

12. The time limits for the delivery and acceptance of the stage work shall be laid down in the contract.

13. The person who commissions the work shall be obliged to notify the author in writing, within 60 days from the date of delivery of the said work, of its acceptance or non-acceptance, or of the fact that acceptance is contingent on the author's making, within a set period, alterations specified by the person commissioning the work.

14. Where alterations are made to the work by the author, the time limit for acceptance of the altered work may not exceed 30 days.

15. The authorized time limit for the acceptance of a stage work shall be calculated from the day of delivery of the work by the author to the person who commissioned it.

16. Where a stage work is not accepted, or where the author refuses to make the alterations specified by the person who commissioned it, or where the alterations are not made within the set period, the person who commissioned the work may withdraw from the contract by notifying his decision in writing and stating his reasons for withdrawal. In that case the advance shall not be repayable.

Correspondence

Letter from Canada

Andrew A. KEYES *

Calendar

WIPO Meetings

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

1979

- November 26 to December 13 (Madrid)** — Diplomatic Conference on Double Taxation of Copyright Royalties (convened jointly with Unesco)
- December 10 to 12 (Geneva)** — International Patent Cooperation (PCT) Union and Budapest Union (Microorganisms) — “PCT and Budapest Treaty” Working Group
- December 10 to 13 (Geneva)** — International Patent Classification (IPC) Union — Committee of Experts

1980

- January 7 to 9 (Geneva)** — Development Cooperation (Copyright) — Working Group on Intellectual Property Aspects of Folklore Protection (convened jointly Unesco)
- January 14 to 17 (Geneva)** — Paris Union — Working Group on Industrial Property Aspects of Consumer Protection
- January 21 to 25 (Geneva)** — Permanent Committee on Patent Information (PCPI) — Working Group on General Information
- January 28 to February 1 (Bissau)** — Development Cooperation — Intellectual Property Seminar for Newly Independent Countries in Africa (convened jointly with UNECA and OAU)
- January 28 to February 1 (Geneva)** — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information
- February 4 to March 4 (Geneva)** — Revision of the Paris Convention — Diplomatic Conference
- February 11 to 15 (Rio de Janeiro)** — Permanent Committee for Patent Information (PCPI) — Working Group on Planning
- March 17 to 21 (Geneva)** — Nice Union — Preparatory Working Group
- March 17 to 28 (Geneva)** — International Patent Cooperation (PCT) Union — PCT Budget Consultants Meeting
- April 28 to 30 (Geneva)** — Permanent Committee for Development Cooperation Related to Industrial Property
- June 9 to 16 (Geneva)** — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)
- June 13 to 19 (Geneva)** — Budapest Union (Microorganisms) — Interim Committee
- June 23 to 27 (Geneva)** — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information
- September 8 to 12 (Rijswijk)** — Permanent Committee on Patent Information (PCPI) — Working Group on Planning
- September 22 to 26 (Geneva)** — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assembly of the International Patent Cooperation (PCT) Union)
- October 14 to 17 (Geneva)** — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries
- October 20 to 24 (Geneva)** — Permanent Committee on Patent Information (PCPI)
- December 8 to 12 (Paris)** — Berne Union — Committee of Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)

UPOV Meetings

1980

- March 18 and 19 (Geneva) — Technical Committee
- April 14 and 15 (Geneva) — Subgroups of the Administrative and Legal Committee
- April 16 (Geneva) — Consultative Committee
- April 17 and 18 (Geneva) — Administrative and Legal Committee
- April 27 to May 11 (Nelspruit) — Technical Working Party for Fruit Crops
- May 12 to 14 (Wageningen) — Technical Working Party for Agricultural Crops
- June 23 to 25 (Geneva) — Subgroups of the Administrative and Legal Committee
- August 26 to 28 (Hanover) — Technical Working Party for Forest Trees
- September 16 to 18 (Lund) — Technical Working Party for Ornamental Plants
- September 23 to 25 (Lund) — Technical Working Party for Vegetables
- October 14 (Geneva) — Consultative Committee
- October 15 to 17 (Geneva) — Council
- November 10 to 12 (Geneva) — Technical Committee
- November 13 and 14 (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 Federation of Library Associations and Institutions (IFLA)**
 - Congress — August 18 to 23 (Manila)
- International Federation of Musicians (FIM)**
 - Executive Committee — February 25 to 28 (Vienna)
 - Congress — May 5 to 9 (Geneva)
- International Literary and Artistic Association (ALAI)**
 - Executive Committee and General Assembly — January 25 and 26 (Paris)
 - Study Session — May 26 to 28 (Helsinki)
- International Publishers Association (IPA)**
 - Congress — May 18 to 22 (Stockholm)

1981

- Internationale Gesellschaft für Urheberrecht (INTERGU)**
 - Congress — September 21 to 25 (Ottawa)

