

Published monthly
Annual subscription:
Sw.fr. 105.—
Each monthly issue:
Sw.fr. 10.—

Copyright

March 1980
16th year - No. 3

Monthly Review of the
World Intellectual Property Organization (WIPO)

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World Intellectual Property Organization

Working Group on the Intellectual Property Aspects of Folklore Protection

(Geneva, January 7 to 9, 1980)

Note

General

In accordance with the deliberations of 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 held from February 5 to 9, 1979, and with the decisions of the respective Governing Bodies of WIPO and Unesco, the International Bureau of WIPO and the Secretariat of Unesco convened a Working Group to study a draft of model provisions for the protection of creations of folklore intended for national legislation and to study international measures in the field of folklore. The Working Group was attended by experts from 16 countries invited in a personal capacity by the Directors General of WIPO and Unesco. The meeting was also attended by representatives of two intergovernmental and seven international non-governmental organizations as observers. The list of participants appears at the end of this Note.

The documentation available to the Working Group consisted of documents prepared by the International Bureau of WIPO containing Model Provisions for National Laws on the Protection of Creations of Folklore and the Commentary on these Model Provisions (documents UNESCO/WIPO/WG. 1/FOLK 2 and 2 Add.) as well as of a document prepared by the Secretariat of Unesco, with the assistance of Professor Jean Carbonnier, containing a Study on the International Regulation of Intellectual Property Aspects of Folklore Protection (document UNESCO/WIPO/WG. 1/FOLK 3).

In a brief introductory address, the Director General of WIPO described the purpose of the meeting, in so far as the national aspects were concerned, as aiming at carrying further the thoughts as to how to protect creations of folklore. He emphasized the desirability of protection of the creations of folklore against unauthorized and unwarranted exploitation and distortion. Such protection, in order to have practical effects, had to be established in a legally

sanctioned form. For that purpose, the International Bureau of WIPO had prepared tentative provisions for national laws for consideration by the Working Group. It was explained that in those provisions the difficulty in finding a definition valid for all purposes was sought to be surmounted by suggesting a definition serving specifically the purpose of legal protection.

The representative of the Director-General of Unesco mentioned that, in accordance with the decisions of the Governing Bodies of Unesco and of the Intergovernmental Committee of the Universal Copyright Convention, a study had been undertaken on an interdisciplinary basis within the framework of a global approach, and that this study was in an advance stage of completion enabling Unesco also to participate along with WIPO in efforts aiming at establishing legal protection of folklore, both at the national and international level.

The Working Group unanimously elected Dr. J. O. Alende (Argentina) as Chairman; Mr. P. Banki (Australia) and Dr. E. P. Gavrilov (Soviet Union) as Vice-Chairmen.

Model Provisions for National Laws on the Protection of Folklore

When elaborating the draft Model Provisions for National Laws on the Protection of Creations of Folklore (hereinafter referred to as the "WIPO Model Provisions") against their improper utilization, the International Bureau of WIPO considered the fact that the integrity of folklore as a living and functional tradition in developing countries is seriously endangered through various forms of its exploitation by means of modern technology. Creations of folklore are not only being commercialized on a worldwide scale without granting the communities which produced them or the country of origin thereof an appropriate share in the returns; creations of folklore are often also distorted in the course of their commercialization in order to better comply with marketing requirements.

In preparing the WIPO Model Provisions, the International Bureau of WIPO had taken into account existing national approaches as they have been reflected during the last fifteen years or so in the respective provisions of the copyright laws of several developing countries also aiming at the protection of folklore, as well as the possibilities of having creations of folklore protected in certain cases by means of protecting their performances, audiovisual fixations or broadcasts. The International Bureau, however, had to face the fact that up to now none of the existing copyright provisions, national or international (such as those in Article 15, paragraph 4, of the Paris Act of the Berne Convention), could be implemented anywhere for an efficient protection of creations of folklore; and further, that even if the number of laws protecting the performers, producers of phonograms and broadcasting organizations would increase in future in a more rapid manner than has been the case so far, the granting of the so-called neighboring rights could not prevent unauthorized performances of works of folklore, or fixation, reproduction and broadcasting thereof.

Thus the International Bureau of WIPO had taken a direct and pragmatic approach, trying to comply with practical requirements corresponding to the characteristics of traditional creations and the typical ways of their improper exploitation. When establishing more adequate *sui generis* provisions, the International Bureau nevertheless left open the way for the application of existing provisions also in the field of copyright and neighboring rights.

For the purposes of the WIPO Model Provisions, consisting of ten sections, the International Bureau considered as "creations of folklore" all artistic creations expressing characteristic elements of traditional culture through forms which have been evolved from generation to generation. Corresponding to the pragmatic approach adopted, an illustrative enumeration of the most typical kinds of creations of folklore was added to the basic definition including: (i) folk tales and folk poetry; (ii) folk songs and instrumental music; (iii) folk dances and plays; (iv) works of folk art, including in particular drawings, paintings, carvings, sculptures, pottery, terra cotta, mosaic, woodwork, metalware, jewellery, needlework, textiles, costumes.

According to the WIPO Model Provisions, any utilization of creations of folklore with gainful intent would be subject to authorization by a competent authority. However, such a rule should not hinder indigenous communities from using their traditional cultural heritage in customary ways and in developing it by continuous imitation. Consequently, the said Provisions provided for a special exception in favor of members of an indigenous community as regards exploiting their folklore with gainful intent. Furthermore, a general exception was proposed in view of

incidental use of creations of folklore (e. g., as mere illustration, or when creating an original author's work by using motifs of folklore).

According to the WIPO Model Provisions, there would be sanctions in cases where creations of folklore are used in a distorting manner, irrespective of whether the use itself is subject to authorization.

In the course of a general discussion, the Working Group agreed that (i) adequate legal protection of folklore was desirable; (ii) such legal protection could be promoted at the national level by model provisions for legislation; (iii) these model provisions should be so elaborated as to be applicable both in countries where no relevant legislation was in force and in countries where existing legislation could be further developed; (iv) the said model provisions should also allow for protection by means of copyright and neighboring rights where such form of protection could apply and (v) the model provisions for national laws should pave the way for sub-regional, regional and international protection of creations of folklore.

The general debate was followed by detailed section-wise discussion of the said Model Provisions. They were generally held to be imaginative and most of them met with general approval. On the other hand, a number of observations and suggestions were made in connection with various sections.

In conclusion, the Working Group recommended that a revised version of the Model Provisions and a commentary thereon should be prepared, taking into consideration all the interventions made during the deliberations. The draft of the revised Model Provisions and the commentary thereon will be jointly prepared and presented by the Secretariats of WIPO and Unesco for further consideration at a subsequent meeting.

International Regulation of the Intellectual Property Aspects of Folklore Protection

In connection with this matter, the representative of the Director-General of Unesco referred to the studies conducted by that Secretariat with a view to the safeguarding of folklore at the international level within the framework of a set of rules and precepts which, in view of the integrated nature of folklore, would cover all disciplines likely to be involved. She stressed that the various aspects comprised in the safeguard of folklore concerned among others also the rules for its use.

It was this aspect which was concerned by the study drawn up by the Unesco Secretariat with the help of Professor Carbonnier, which, while examining the various legal means capable of protecting folklore at the international level against unlawful exploitation and preventing its deterioration, also outlined technical arrangements for that purpose.

Professor Carbonnier emphasized among others that the complexity of the problem makes it necessary

to focus the relevant study, in an initial stage, on the folklore phenomena that had arisen to the most flagrant abuses of adulteration and despoiling, namely, music, dances, songs and oral recitations. As to the question of a legal instrument, he esteemed it preferable at this stage to proceed by making recommendations rather than by drawing up an international convention.

The need for international protection of folklore was emphasized by the majority of experts. A number of definite proposals were made as to the procedure for protection at the international level, which would entail automatic protection inspired by protection of literary and artistic works, registration of creations of folklore, introduction of a licensing system for commercial use, indication of the source of the folklore used. These interventions have been recorded.

The Working Group strongly recommended that the Secretariats, while continuing the study of the intellectual property aspects of folklore protection at the international level, should endeavor in the first stage to identify on a regional basis the possibilities of protection of folklore. Simultaneously, the ongoing studies being undertaken by Unesco in the framework of a global and interdisciplinary approach should be continued and utilized in so far as they concern the intellectual property aspects of the protection of folklore.

The expert from Bolivia suggested that a Latin American pilot meeting be held in La Paz to consider international norms for the protection of folklore on a regional, rather than purely national, basis.

List of Participants

I. Members of the Working Group

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Présidente de la Société suisse des traditions populaires, Berne, Suisse

Mr. P. Banki
Legal Research Officer, Australian Copyright Council, Milsons Point (NSW), Australia

M. J. Carbonnier
Professeur à l'Université de droit, d'économie et de sciences sociales, Paris, France

Dr. M. Ficsor
Director General, Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS), Budapest, Hungary

Dr. E. P. Gavrilov
Head, Legal Department, Copyright Agency of the USSR (VAAP), Moscow, USSR

Dr. A. Jabbour
Director, American Folklife Center, Library of Congress, Washington, USA

Dr. R. R. Monroy
Director Ejecutivo, Instituto Boliviano de Cultura, La Paz, Bolivia

M. N. Ndiaye
Directeur général, Bureau sénégalais du droit d'auteur, Dakar, Sénégal

Mme M. A. Niedzielska
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Dr S. Pretnar
Professeur émérite, Faculté de droit, Université de Ljubljana, Yougoslavie

Dr. S. D. Quason
Director, The National Library, Manila, Philippines

Dr. D. Savanananda
Director General, Fine Arts Department, Bangkok, Thailand

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

II. Intergovernmental Organizations

Arab Educational, Cultural and Scientific Organization (ALECSO): M. Ben-Amor. **Organization of American States (OAS):** F. E. Hurtado de Mendoza.

III. International Non-Governmental Organizations

European Broadcasting Union (EBU): W. Rumphorst. **International Confederation of Societies of Authors and Composers (CISAC):** M. Astruc. **International Copyright Society (INTERGU):** G. Halla. **International Federation for Documentation (FID):** H. Arntz. **International Federation of Musicians (FIM):** R. Leuzinger. **International Literary and Artistic Association (ALAI):** J. A. Koutchoumow. **International Publishers Association (IPA):** J. A. Koutchoumow.

IV. Secretariat

World Intellectual Property Organization (WIPO)

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

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock (*Director, Copyright Division*); A. Amri (*Chief, International Copyright Information Centre*).

Accessions to the WIPO Convention

CHINA

The Government of the People's Republic of China deposited, on March 3, 1980, 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 People's Republic of China, three months after the date of deposit of its instrument of accession, that is, on June 3, 1980.

WIPO Notification No. 110, of March 3, 1980.

COLOMBIA

The Government of the Republic of Colombia deposited, on February 4, 1980, 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 Republic of Colombia, three months after the date of deposit of its instrument of accession, that is, on May 4, 1980.

WIPO Notification No. 109, of February 4, 1980.

Berne Union

The Berne Union and International Copyright and Neighboring Rights in 1979 *

I. Introduction

The main aim of the copyright and neighboring rights activities is to strengthen cooperation among States in the mutual protection of literary and artistic works, musical and other performances, phonograms and broadcasts. Such activities, apart from those concerned with development cooperation related to copyright and neighboring rights, are concerned with the study of particular problems arising in the fields of copyright and neighboring rights and in the servicing of international treaties and the improvement of national legislations.

* This article covers the main activities of the Berne Union and in the fields of international copyright and neighboring rights. The activities of the World Intellectual Property Organization as such are covered in the February 1980 issues of *Copyright* and *Industrial Property*. The March 1980 issue of the latter covers the main activities of the Paris Union and industrial property in 1979.

II. Berne Union

A. Member States

At the end of 1979, the International (Berne) Union for the Protection of Literary and Artistic Works had, as member States, the same 71 States as at the beginning of the year. A table of member States was published in the January 1980 issue of this review.

B. Paris Act (1971) of the Berne Convention

Acceptance. During 1979, Denmark, Italy and Uruguay deposited instruments of ratification of the Paris Act (1971) of the Berne Convention in its entirety. The said Act entered into force in 1979 for Portugal on January 12, for Denmark on June 30, for Italy on November 14 and for Uruguay on December 28.

Applicability of Articles 1 to 21 and the Appendix. At the end of 1979, 39 States were bound by Articles 1 to 21 and the Appendix of the Paris Act (1971) of the Berne Convention.

Applicability of Articles 22 to 38. At the end of 1979, 46 States were bound by Articles 22 to 38 (administrative provisions and final clauses) of the Paris Act (1971) of the Berne Convention. In addition, 14 States were bound by Articles 22 to 38 (administrative provisions and final clauses) of the Stockholm Act (1967) of the Berne Convention.

Contribution Class. When depositing its instrument of accession to the Paris Act (1971) (see above) the Government of Uruguay chose Class VII for the purpose of establishing its contributions towards the budget of the Berne Union. In 1979, with effect from 1980, Canada chose Class III (instead of Class II) and the Holy See chose Class VII (instead of Class VI).

C. Governing Bodies

The Executive Committee of the Berne Union held its fourteenth (fifth extraordinary) session in February 1979. Sixteen States members of the Committee were represented, 27 other States members of the Berne Union were represented as observers, and six other States, participating in the simultaneous session of the Intergovernmental Copyright Committee established under the Universal Copyright Convention, also attended the meeting. Five intergovernmental organizations and 20 international non-governmental organizations were represented by observers.

The Executive Committee considered a first draft of the *program of WIPO activities* for 1980, 1981 and 1982 in the fields of copyright and neighboring rights, and welcomed having the opportunity to do so at a preliminary stage with the participation of members of the Universal Copyright Convention and the Secretariat of Unesco, so that the fullest possible cooperation between the activities of the two Organizations in these fields might be achieved. The Director General of WIPO stated that, in his view, all activities of WIPO and Unesco in the field of copyright should be carried out jointly except where legal reasons made it necessary that the two Organizations act separately or where the desired results could be obtained with more efficiency if the two Secretariats acted separately.

The Executive Committee gave detailed advice on the various items of the first draft of the said WIPO program. In particular, it recommended that the program provide for a regional Seminar on neighboring rights in Africa in 1980 and for global meetings on piracy in 1981 and 1982, one of them dealing with piracy in the field of phonograms, the other with piracy in other fields; it recommended that certain

proposed activities be omitted concerning the promotion of the acceptance of the (future) treaty on the avoidance of double taxation of copyright royalties, audiovisual cassettes and discs, and distribution by cable of television programs. The Committee noted that draft model provisions for the national protection of folklore would be submitted for information to the March session of the WIPO Permanent Committee (Copyright), and that it could be convenient to proceed also with the preparation of draft model provisions concerning international protection, without prejudice to the measures that Unesco could adopt concerning all aspects — cultural, social, legal, etc. — of folklore, following its current study.

The Executive Committee considered *the question of a possible Protocol to the Berne Convention intended to enable the United States of America to accede to that Convention.* After a full discussion, opened by a statement by the Delegation of the United States of America, the Committee decided to recommend to the forthcoming session of the Assembly of the Berne Union that the matter of the possibilities of accession by the United States of America to the Berne Convention should be further studied by a Committee of Experts whose members would be representatives of governments and to whose deliberations international organizations would be invited as observers. A draft of the exact terms of reference would be prepared by the Director General, sent in due course to States members of the Assembly and submitted to the said session of the Assembly after consultations with a group of representatives of five member countries of the Committee. The Committee noted that the Director General would, in the meantime, go on a brief mission to the United States of America in order to ascertain further the present thinking there about the matter.

The mission referred to in the preceding paragraph was undertaken by the Director General in May 1979. He held discussions with government officials and interested private circles in Washington and Los Angeles. The said circles showed great interest in the United States of America becoming a member of the Berne Union if that did not entail immediate changes in the United States Copyright Act. On the other hand, in a longer perspective, the abandonment of the formalities required for the full enjoyment of protection provided for in that Act appears to be a distinct possibility whose achievement should not cause great difficulties.

Having received a report on ratifications of and accessions to the *Paris Act (1971) of the Berne Convention*, the Executive Committee adopted a recommendation to the States not yet bound by that Act drawing their attention to the advantage of unifying as far as possible the protection of literary and artistic works in the framework of the Berne Union and,

to that end, of joining as soon as possible those States that have already ratified or acceded to the Paris Act (1971).

The Executive Committee and the Intergovernmental Copyright Committee, in a joint meeting, noted information on developments concerning: the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (*Rome Convention*); the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (*Phonograms Convention*); the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (*Satellites Convention*); in connection with the revised Paris texts of 1971 of the Berne Convention and the Universal Copyright Convention regarding special provisions for developing countries, progress of work of the *Working Group on the Overall Problems Posed for Developing Countries Concerning Access to Works protected under those Conventions*; problems arising from the *use of audiovisual cassettes and discs* and problems arising from the *transmission by cable of television programs*. On the two last-mentioned items, the Committees asked their Secretariats to request member States and interested international organizations to submit comments on the reports of the Subcommittees which had examined the questions, with a view to their consideration by the Committees at their meetings in October 1979.

The two Committees also considered jointly the application of the Berne Convention and of the Universal Copyright Convention to *material intended specially for the blind*, and noted a report on this subject prepared by the World Council for the Welfare of the Blind (WCWB). They asked their Secretariats to transmit the WCWB report to the member States and interested international organizations for their comments which, after evaluation, would be submitted to the next sessions of the Committees. They expressed the desire that the problems of the aurally handicapped be investigated also.

The Berne Union Assembly, Conference of Representatives and Executive Committee held ordinary sessions in September/October 1979, during the tenth series of meetings of the Governing Bodies of WIPO and the Unions administered by WIPO. The main items discussed and the principal decisions taken by the Governing Bodies during the said sessions are reported on in the January 1980 issue of this review.

The Executive Committee of the Berne Union met in extraordinary session in October 1979. It held joint meetings with the Intergovernmental Copyright Committee set up under the Universal Copyright Convention. Fifteen of the former Committee's 18 member States were represented. Four intergovern-

mental organizations and 20 international non-governmental organizations were represented by observers.

In a joint discussion with the Intergovernmental Copyright Committee, it appeared desirable to standardize the lists of intergovernmental and international non-governmental organizations admitted to attend the discussions of the Committees as *observers*. It was noted with approval that international non-governmental organizations admitted as observers to the discussions of the Intergovernmental Copyright Committee, but not of the Executive Committee of the Berne Union, and vice versa, if they wished to have observer status in both bodies, would be invited to request such status; in that event, the Director General of WIPO would recommend to the Governing Bodies of the Berne Union that observer status be granted.

The Committees discussed the question of the application of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (*Satellites Convention*) on the basis of the report of the Committee of Governmental Experts which met in Paris in June 1979 to draw up guiding principles for the implementation of the *Satellites Convention* by national legislators. These guiding principles consisted of two draft model provisions, one granting broadcasting organizations the right to authorize or prohibit the distribution of their programme-carrying signals (system of specific right) and the other prohibiting operations governed by the Convention (system of administrative and penal measures).

In conclusion, the Committees, while paying tribute to the work carried out by the governmental experts in accordance with the terms of reference assigned to them, noted that such terms of reference were limited to the preparation of model provisions based on the *Satellites Convention*, in particular Article 2 thereof, and did not cover other aspects of the problems, in particular the copyright problems, arising in connection with the distribution of programme-carrying signals transmitted by satellite. They therefore decided not to adopt any position for the time being on the report of the Committee of Governmental Experts, and to keep this item on their agenda. They requested their respective Secretariats to invite the States and the organizations concerned to put forward comments on the draft model provisions and to submit an analysis of replies to their sessions in 1981. Concurrently, the two Secretariats would conduct an analysis of the interaction of the said provisions with copyright.

The Committees noted with approval the recommendations of the Working Group which met in July 1979 to review all the problems posed for the devel-

oping countries by *access to protected works*, dealing with the application of the revised texts of 1971 of the Berne Convention and of the Universal Convention and with practical arrangements which would assist such application, including the recommendation that they should be kept regularly informed at their joint meetings of relevant projects, activities and achievements. It was also noted with keen satisfaction that the Directors General of Unesco and WIPO were nearing conclusion of an agreement for the establishment of a joint international Unesco/WIPO service for access by developing countries to works protected by copyright; this agreement still required the approval of the General Conference of Unesco at its twenty-first session, to be held in 1980; consequently it could not enter into operation until January 1, 1981, but preparations for the establishment of the aforesaid service would begin in 1980. The Committees were informed that, in pursuance of the recommendations of the above-mentioned Working Group with regard to the formulation of guiding principles, their respective Secretariats planned to convene jointly during 1980 a new working group, the results of whose deliberations could be taken into account within the context of the activities of the proposed joint international service.

The Committees noted, with gratitude and appreciation, the report of the Working Group which met in May 1979 in order to study the *copyright problems arising from the use of computers for access to protected works or the creation of works*. They took the view that, since the question was essentially an evolving one, it needed to be kept under active consideration. They noted in this respect that the Secretariats would convene at the end of 1980 a Committee of Governmental Experts in order to analyze further the impact of computer storage and retrieval of works protected by copyright on their protection and the possible need for express recognition of copyright protection for works created with the help of computers, and to formulate tentative recommendations applicable at the national and international levels. The Secretariats were asked to undertake studies on the question of copyright ownership when abstracts are prepared within documentation services, with regard to consequences for the relations between employers and employed or salaried authors. It was noted that the International Labour Office wished to be associated in this latter activity.

The Committees examined the report of their respective Subcommittees which met in July 1978 to examine the *problems arising from the transmission by cable of television programs*.

Observing that certain of the problems were still in need of further study, they noted that independent experts would be called upon by the two Secretariats to meet at the beginning of 1980 in order to discuss

the question of the impact of cable television in the sphere of copyright, particularly in respect of cinematographic works and works expressed by a process analogous to cinematography, and also to give their advice as regards the preparation of a worldwide forum in 1981 on combating the piracy of phonograms, films and other audiovisual recordings, a question which should be discussed more especially from the point of view of authors, producers of films, performers, producers of phonograms, broadcasting organizations and the general public.

The Committees endorsed the main lines of the recommendations adopted by their respective Subcommittees which met in September 1978 to examine the *legal problems arising with regard to copyright as a result of the use of audiovisual cassettes and discs*. However, several delegations voiced reservations concerning the very principle of instituting a compensatory charge in the case of private use, as well as questioning the basis of assessment for this charge which could bear either on recording equipment, or on material supports, or again on both. Views were expressed to the effect that any levy affecting the sales price should only be made on one or other of the above-mentioned elements. Again, certain delegations wondered what economic impact such a compensatory charge might have on countries importing such elements, the impact being particularly heavy for developing countries.

Noting that some problems still needed to be considered in greater depth, the Committees expressed the wish that the group of independent experts that would be convened in 1980 to examine certain aspects of the impact of cable television in the area of copyright might also take into account the problems raised by the economic repercussions of the utilization of audiovisual cassettes and discs and particularly the impact that might result from the introduction of compensatory charges.

The delegation of India informed the Committees of the invitation extended by its Government to host the *1981 sessions of the Executive Committee of the Berne Union* and the Intergovernmental Copyright Committee in New Delhi. The Executive Committee of the Berne Union thanked the Indian authorities and expressed the wish that all administrative and budgetary measures be taken that would make it possible to accept the invitation.

III. International Copyright

A. Development Cooperation Activities Related to Copyright and Neighboring Rights

The activities in 1979 of the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights are summarized in

the February 1980 issue of this review. They concern the following: the Permanent Committee (membership and third session); support of national authors and performers; access to and dissemination of protected works, including implementation of the specific provisions for the benefit of developing countries contained in the Paris texts of the Berne Convention and the Universal Copyright Convention; a glossary of terms of the law on copyright; the protection of folklore; the training program in the field of copyright and neighboring rights; regional meetings; assistance to certain developing countries and regional institutions of developing countries and cooperation among developing countries.

B. Problems Arising from the Use of Computers

WIPO and Unesco convened jointly in May 1979 a Working Group composed of representatives of one intergovernmental and seven international non-governmental organizations to study, with the help of three consultants, the copyright problems arising from the use of computers and related facilities for access to or the creation of works.

The discussions of the Working Group were based on reports prepared by two consultants. The main conclusions in respect of the use of computers for the storage and retrieval of protected works were that input of a work into a computer memory should be considered as amounting to reproduction, and that the introduction of compulsory licenses in this field would be premature. On the question of the use of computers for the creation of works, the Working Group suggested certain clarifications as to who should be regarded as the authors of such works.

The report of the Working Group was submitted to the October 1979 sessions of the Executive Committee of the Berne Union and the Intergovernmental Copyright Committee (see above).

C. Double Taxation of Copyright Royalties

An International Conference of States on the Double Taxation of Copyright Royalties remitted from one country to another was held in Madrid from November 26 to December 13, 1979, convened jointly by WIPO and Unesco, at the invitation of the Government of Spain. The delegations of 44 States participated with observers from one intergovernmental and seven non-governmental international organizations.

The Conference dealt with problems arising from the double taxation of copyright royalties. This double taxation is caused when tax deductions are made on such royalties both where the literary, artistic or scientific work is used, and where its author resides. Such a situation is prejudicial to the interest of authors and constitutes a serious impediment to

the dissemination of copyright works, which is one of the factors in the development of culture, science and education.

The Conference elected as its president the head of the Delegation of Spain, and as chairmen of the Main Commission of the Conference, the Drafting Committee and the Credentials Committee and as Rapporteur delegates from Hungary, France, Japan and Cameroon, respectively.

At the end of its deliberations, the Conference established in Arabic, English, French, Russian and Spanish the text of a Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, to which is attached an optional Model Bilateral Agreement on the subject. The texts are based on drafts prepared by a Committee of Governmental Experts at its third session in June 1978.

The new Convention has been deposited with the Secretary-General of the United Nations and remains open for signature until October 31, 1980. It will enter into force three months after the deposit of the tenth instrument of ratification, acceptance or accession.

IV. Rome Convention

A. Member States

In 1979 El Salvador and Ireland deposited instruments of accession and ratification, respectively, relating to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention). The Rome Convention entered into force in respect of El Salvador on June 29 and in respect of Ireland on September 19, 1979. On the latter date the number of States party to the Rome Convention was 23.

B. Intergovernmental Committee

A Subcommittee of the Intergovernmental Committee of the Rome Convention met in February 1979 to study the replies received to the inquiry on the implementation of and the administration of rights under the said Convention. Eight States members of the Intergovernmental Committee were represented; three States party to the Rome Convention, one intergovernmental organization and 10 international non-governmental organizations were represented by observers. The Secretariat of the Intergovernmental Committee is constituted jointly by the International Labour Office (ILO), Unesco and WIPO.

The Subcommittee adopted, subject to two specific reservations by two delegations, extensive recommendations concerning the protection of performers, producers of phonograms and broadcasting organizations, and suggested that its report and recommenda-

tions be submitted to the Intergovernmental Committee at its next (seventh) ordinary session. The report and recommendations were published in the April 1979 issue of this review.

The Intergovernmental Committee of the Rome Convention held its seventh ordinary session in Paris in October 1979. Nine out of the twelve member States of the Committee were represented. The Governments of six States, party to the Rome Convention but not members of the Committee, and sixteen States not party to the Convention were represented by observers. One intergovernmental organization and eleven international non-governmental organizations attended the session as observers.

The Committee discussed the report of its *Subcommittee on Implementation of the Rome Convention*, as well as recommendations concerning the protection of performers, producers of phonograms and broadcasting organizations, annexed to the said report. The Committee noted that the Subcommittee had concluded that the Rome Convention is a flexible instrument, which was an attribute that could serve to facilitate adherence to the Convention. The Convention has been a success in that since its adoption a large number of States had legislated in matters related to the Convention. The Committee also noted that no evidence had been submitted concerning the possible adverse effect of Article 12 rights on copyright royalties and that, even if that were the case, it would not constitute sufficient reason for denying the rights provided for in the Rome Convention in respect of secondary use of phonograms. On the question of the administration of rights of performers and producers of phonograms granted in accordance with Article 12, the Committee noted that the Subcommittee had concluded that practical and economical arrangements had been found and that the administration of such rights was not difficult. It also noted the guidelines elaborated by the Subcommittee, which took into account alternative arrangements and practical considerations on the establishment and operations of collecting societies and on international bilateral agreements.

The Committee decided that the recommendations annexed to the Subcommittee's report should be published separately by the Secretariat (i. e., ILO, Unesco and WIPO) and distributed to all members of the United Nations system. The Committee noted that the Subcommittee's work was particularly important for all beneficiaries of the Convention since it underscored the threat of technological development in the media to the artistic professions. The Committee felt that attention should also be given to the particular conditions in developing countries where oral art forms are prevalent and which called for a model infrastructure of protection in these countries.

The Committee unanimously felt that a guide to the Rome Convention would be useful to promote the Convention and that it should be published by WIPO as soon as possible.

The Committee noted that six States (Egypt, El Salvador, Israel, Japan, Norway, Paraguay) had, since July 1977, ratified or acceded to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (*Phonograms Convention*); that 32 States were party to this Convention in July 1979, but that in the past twelve months there had been no further ratifications or accessions. It agreed to adopt a recommendation to all Member States of the United Nations system that have not yet adhered to this Convention to do so as soon as possible, pending adherence to the Rome Convention, the recommendation to be accompanied by an explanatory note to be prepared by the Secretariat indicating briefly the background and objectives of the Convention.

The Committee expressed satisfaction at the entry into force of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (*Satellites Convention*), and hoped that more States would adhere to this Convention.

The Committee discussed and adopted, for circulation to all States party to the Convention, the report of its Subcommittee on the *Transmission of Television Programs by Cable*.

The Committee felt that legal problems arising from the transmission of television programs by cable in regard to protection of the interests of the beneficiaries of the Rome Convention cannot be solved in a uniform manner in all countries. It was of the view that the Subcommittee's report, in so far as it offers possibilities to national legislators on the basis of legislative solutions adopted or planned in different countries, as well as current practice in respect of contractual relationships between different interests concerned, contained valuable guidelines for the States. On this point the Committee noted that the report of the Subcommittee recommended that domestic laws should treat the transmission of television programs by cable as broadcast. However, several delegations expressed the opinion that sections of the report concerning retransmission of captured transmissions could lead to too wide an interpretation of the scope of Article 12 of the Rome Convention in respect of a remuneration in the event that cable television is considered as a communication to the public.

The Committee discussed the report of its Subcommittee on the *Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs*, with particular reference to the definition of the term

"videogram." Several delegations expressed the view that the definition of the term "videogram" should be reviewed taking into account the definition of phonogram contained in the Rome and Phonograms Conventions; the Committee felt that the terminology used for videogram should be the same in respect of both copyright and neighboring rights fields.

In connection with the recommendation of the Subcommittee that a compensation for the prejudice caused by the private use of videograms to those concerned should be based on a levy on both the equipment and the material support, a number of delegations indicated that alternative systems of levies existed in their countries. For example, a levy could be based either on the equipment or on the material support or on both. The Committee noted that, in any event, all contributors and copyright owners should be beneficiaries of the levy envisaged.

V. Phonograms Convention

Member States

At the end of 1979, the number of States party to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (Phonograms Convention) was the same as at the beginning of the year, that is, 32 (see in this respect the recommendation adopted by the Intergovernmental Committee of the Rome Convention).

Declarations under Article 7(4). During 1979, no State made a declaration under Article 7(4) of the Phonograms Convention. Three States (Finland, Italy, Sweden) have so far made a declaration under Article 7(4) of the Phonograms Convention to the effect that they will apply the criterion according to which they afford protection to producers of phonograms solely on the basis of the place of first fixation instead of the criterion of the nationality of the producers.

VI. Satellites Convention

Entry into Force, Member States

The Federal Republic of Germany deposited on May 25, 1979, its instrument of ratification of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention). The Satellites Convention entered into force on August 25, 1979, with respect to the Federal Republic of Germany, Kenya, Mexico, Nicaragua and Yugoslavia.

Model Provisions

A Committee of Governmental Experts on the Implementation of the Satellites Convention was convened by WIPO and Unesco in Paris in June 1979.

Experts from nineteen States participated, and one State attended as an observer.

The Committee undertook the definitive formulation of model provisions, prepared by a Working Group in 1978, to serve as guidelines for national legislation for the implementation of the Satellites Convention. In completing its work, the Committee also recorded a number of observations concerning the model provisions (see, however, the position of the Copyright Committees referred to above).

VII. Vienna Agreement (Type Faces)

Acceptance

During 1979, no State deposited an instrument of ratification or of accession to the Vienna Agreement for the Protection of Type Faces and their International Deposit. The Vienna Agreement (Type Faces) is not yet in force.

The text of the Vienna Agreement (Type Faces) was published in German in February 1979.

VIII. Publications

A. "Copyright" and "Le droit d'auteur"

The reviews *Copyright* and *Le Droit d'auteur* continued to appear every month.

B. Collection of Laws and Treaties on Copyright

The separate publication of the collection relating to copyright in English is being kept up to date in cooperation with Unesco.

C. Guide to the Berne Convention

In addition to the French original and the English version of the *Guide to the Berne Convention* published in 1978, Spanish, Arabic and Japanese translations were published in April, July and August 1979, respectively. A Portuguese translation of the Guide was prepared and is being printed. Arrangements have been made for the publication of the Guide in German and Russian.

IX. Other Matters

Relations with States and Intergovernmental Organizations

See the report on WIPO and its activities in 1979 in the February 1980 issue of this review.

WIPO was represented at the celebration, in Madrid in May 1979, of the one hundredth anniversary of the copyright law of Spain.

WIPO was also represented at a Consultation of Experts on the Safeguarding and Preservation of Moving Images convened by Unesco in Paris in May

1979, and at a meeting of a Committee of Experts on Legal Protection in the Media Field, convened by the Council of Europe in Strasbourg in January 1979.

Relations with International and National Non-Governmental Organizations

WIPO was represented at the following meetings of international and national non-governmental organizations having an interest in copyright and related matters at which questions of direct interest to WIPO were discussed: Symposium on the International Protection of Performers and Performers' Rights, organized by the International Federation of Musicians (FIM) and the International Federation of

Actors (FIA), and Executive Committee of FIM, in Geneva in January 1979; Executive Committee and General Assembly of the International Literary and Artistic Association (ALAI) in Paris in January 1979; celebration of the twenty-fifth anniversary of the Swedish Copyright Society in Stockholm in April 1979; Legal and Legislation Committee of the International Confederation of Authors and Composers (CISAC) in Madrid in May 1979; Council of the International Federation of Producers of Phonograms and Videograms (IFPI) in Palma de Mallorca in May 1979; Congress of the International Writers Guild (IWG) in Helsinki in June 1979; Congress of the International Federation of Actors (FIA) in Budapest in September 1979.

National Legislation

BURUNDI

Decree-Law regulating the rights of authors and intellectual property in Burundi

(No. 1/9, of May 4, 1978)

PART I

Authors' rights

Article 1. The author of an intellectual work shall, by the mere fact of its creation, enjoy an exclusive incorporeal property right in the work, effective against all persons. This right includes attributes of an intellectual and moral nature as well as attributes of an economic nature, as determined by this Decree-Law.

Article 2. The provisions of this Decree-Law protect the rights of authors of all intellectual works, regardless of their kind, form of expression, merit or purpose.

The following in particular shall be considered intellectual works within the meaning of this Decree-Law: books, pamphlets and other literary, artistic and scientific writings; lectures, addresses, sermons, pleadings in court and other works of the same na-

ture; dramatic or dramatico-musical works; choreographic works and pantomimes the acting form of which is fixed in writing or otherwise; musical compositions with or without words; cinematographic works and works produced by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving, lithography; photographic works of an artistic or documentary character, and works of the same character produced by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science.

Article 3. The rights of authors of works of Burundi folklore shall be exercised by the competent national authority.

Article 4. All literary, artistic and scientific works created on the national territory by authors presumed to be nationals of Burundi, passed from generation to

generation and constituting one of the basic elements of the traditional cultural heritage, shall be considered works of national folklore.

Article 5. The authors of translations, adaptations, new versions or arrangements of literary, artistic or scientific works shall enjoy the protection provided by this Decree-Law, without prejudice to the rights of the author of the original work.

The same shall apply to the authors of anthologies or collections of various works, or of popular or folk themes, which, by reason of the selection and arrangement of their contents, constitute intellectual creations.

Article 6. A work shall be considered created, independent of any public disclosure, by the mere fact of the author's conception being realized, even incompletely, in so far as it is fixed on a material object.

Article 7. Authorship shall belong, in the absence of proof to the contrary, to the person or persons under whose name the work is disclosed.

The authors of pseudonymous works shall enjoy, in those works, the rights recognized by Article 1.

They shall be represented in the exercise of those rights by the original publisher until such time as they reveal their identity and prove their authorship.

Article 8. A work of joint authorship is a work to the creation of which several natural persons have contributed.

A composite work is a new work in which a pre-existing work is incorporated without the collaboration of the author of the latter.

A collective work is a work created on the initiative of a natural person or legal entity who edits it, publishes it and discloses it under his direction and name, and in which the personal contributions of the various authors who participated in its elaboration are merged in the whole work for which it was conceived, so that it is impossible to attribute to each author a separate right in the work thus made.

Article 9. A work of joint authorship shall be the joint property of the co-authors. They shall exercise their rights by common consent.

In cases of disagreement, the civil courts shall decide. Where the contribution of each of the co-authors is of a different kind, each shall be entitled, in the absence of an agreement to the contrary, to exploit his personal contribution separately, without however prejudicing the exploitation of the common work.

Article 10. A composite work shall be the property of the author who made it, subject to the rights of the author of the pre-existing work.

Article 11. A collective work, in the absence of proof to the contrary, shall be the property of the natural person or legal entity in whose name it is disclosed.

The author's rights shall vest in that person.

Article 12. Authorship of a cinematographic work shall belong to the natural person or persons who bring about the intellectual creation thereof.

In the absence of proof to the contrary, the following shall be presumed to be the co-authors of a cinematographic work made in collaboration:

- (1) the author of the script,
- (2) the author of the adaptation,
- (3) the author of the dialogue,
- (4) the author of the musical compositions, with or without words, specially composed for the work,
- (5) the director.

Where a cinematographic work is adapted from a pre-existing work or script which is still protected, the authors of the original work shall be assimilated to the authors of the new work.

Article 13. If one of the authors refuses to complete his contribution to the cinematographic work, or is unable to complete his contribution owing to circumstances beyond his control, he may not oppose the use of the part of his contribution already in existence for the completion of the work. He shall be deemed to be the author of his contribution, and shall enjoy the rights deriving therefrom.

In the absence of an agreement to the contrary, each of the authors of a cinematographic work may freely dispose of the part of the work which constitutes his personal contribution for the purpose of exploiting it in a different field and within the limits fixed by Article 9.

Article 14. A cinematographic work is considered completed when the first master print has been established by common consent between the director, or as the case may be the co-authors, and the maker.

The authors' own rights as defined in Article 17 shall be exercised by them only in relation to the completed cinematographic work, unless Article 258 of the Civil Code is applicable against a person by whose fault the completion of the film was prevented.

Article 15. The maker of a cinematographic work shall be the natural person or legal entity which takes the initiative and responsibility in the making of the work.

The maker may be the author or one of the co-authors of the work if he comes within the definition given in Article 12.

The authors of a cinematographic work other than the author of the musical compositions, with or

without words, shall be bound to the maker by a contract which, in the absence of a clause to the contrary, shall constitute assignment to the maker of the exclusive right of cinematographic exploitation, without prejudice to the authors' rights recognized by the provisions of Part II.

Article 16. The authorship of a radio or television work shall belong to the natural person or persons who bring about the intellectual creation thereof.

The provisions of Articles 12, last paragraph, and 13 shall be applicable to radio and television works.

Article 17. The author shall enjoy the right to respect for his name, his authorship and his work.

This right shall be attached to his person.

It shall be perpetual, inalienable and imprescriptible.

It may be transmitted *mortis causa* to the heirs of the author.

The exercise of this right may be conferred on a third party by testamentary provisions.

Article 18. The author alone shall have the right to disclose his work. He shall determine the method of disclosure and the conditions thereof subject, with respect to cinematographic works, to the provisions of Article 13.

After the death of the author this right shall be exercised by his heirs in the absence of an executor.

In the case of manifest abuse in the exercise or non-exercise of the right to disclose the work by the deceased author's successors in title, the Court of First Instance may order any appropriate measure. The same shall apply in the case of conflict between the successors in title or if there is no heir entitled to inheritance.

The matter may in particular be referred to the Court by the Ministry in charge of cultural affairs.

Article 19. The author shall enjoy, during his lifetime, the exclusive right to exploit his work in any form whatever and to derive monetary benefit therefrom. On the death of the author this right shall continue to the benefit of his successors in title during the current calendar year and for fifty years thereafter. In the case of works of joint authorship the determinative calendar year shall be that of the death of the last surviving co-author.

Article 20. The calendar year of publication of the work shall determine the calculation of the fifty years of protection in the following cases:

- (1) posthumous works published by the successors in title of the deceased author;
- (2) works the rights in which belong to a legal entity;

- (3) anonymous or pseudonymous works for as long as the author remains unknown.

In the case of the publication of a work of joint authorship in instalments, the term shall be counted from January 1 of the year following the publication of each instalment.

However, if publication is completed within a period of twenty years following the publication of the first instalment, the term of the exclusive right for the work as a whole shall end only on expiration of the fiftieth year following that of the publication of the last instalment.

PART II

Exploitation of the economic rights of the author

Article 21. The right of exploitation belonging to the author shall include:

- (1) the right of performance, whereby the work may be communicated directly by recitation, performance, public presentation or dissemination by any appropriate method of the text, image or sound, or any other substantial element, in a public place;
- (2) the right of reproduction of the work, whereby the work may be communicated to the public indirectly by any process such as printing, photography, drawing, casting, mechanical, cinematographic or magnetic recording, translation, adaptation or arrangement.

In the case of architecture, reproduction shall also consist in the repeated execution of a plan or standard project.

Article 22. The incorporeal property right defined in Article 1 shall be independent of the property rights in the material object.

The person who acquires that object shall not be invested, by its acquisition, with any of the rights provided for in this Decree-Law, except in the cases specified in Article 18, second paragraph.

Article 23. The economic rights in works of national folklore shall be exercised by the competent authority.

Copies of works of the national folklore of Burundi, and copies of translations, adaptations, arrangements or other transformations of such works, made abroad without the authorization of the competent authority may be neither imported nor distributed.

Article 24. The right of performance and the right of reproduction may be assigned free of charge or for a consideration.

Assignment of the right of performance shall not imply assignment of the right of reproduction.

Assignment of the right of reproduction shall not imply assignment of the right of performance.

Where a contract implies total assignment of either of the rights referred to in this Article, the scope of the assignment shall be limited to the methods of exploitation specified in the contract.

Article 25. Notwithstanding the assignment of the exploitation rights, the author shall, even after the publication of his work, enjoy, in relation to the assignee, the right to change his mind or to withdraw the work. He may only exercise this right, however, on the condition that he indemnify the assignee beforehand for the prejudice that the change or withdrawal might cause him.

Where the author decides to have his work published after having exercised the right to change his mind or to withdraw the work, he is bound to offer his exploitation rights in the first instance to the assignee he originally chose, and on the conditions originally specified.

Article 26. Total assignment of future works shall be void.

Article 27. Any complete or partial performance or reproduction made without the consent of the author or his successors in title or assignees shall be unlawful.

The same shall apply to translations, adaptations, new versions, arrangements or reproductions made by any method or process whatever.

Article 28. When the work has been disclosed, the author may neither prohibit nor profit by:

- (1) free, private performances produced exclusively within the family circle;
- (2) copies or reproductions made strictly for the private use of the copier and not intended for collective use, with the exception of copies of works of art intended to be used for purposes identical with those for which the original work was created;
- (3) on condition that the name of the author and the source are clearly indicated, analyses and quotations justified by the critical, polemic, educational, scientific or informational character of the work in which they are incorporated; press reviews.

The dissemination, even in their entirety, through the press or by broadcast as current news reports, of speeches intended for the public made at political, administrative, judicial or academic gatherings, as well as at public meetings of a political nature and official cere-

monies: Provided, however, that the authors of such speeches shall have the exclusive right to combine them in a collection;

- (4) parodies, pastiches and caricatures, with due consideration for the rules applicable to that type of work.

Article 29. Official documents of the public authorities shall not generate authors' rights.

Any other publications produced by the Government or public institutions, including works of national folklore, shall generate authors' rights, either in favor of the State or in favor of the public institution concerned, for a term of fifty years following their publication.

Article 30. Notwithstanding the provisions of Article 27, if the author of a literary or scientific work has not authorized or undertaken its translation into either Kirundi or French after a period of three years following the original publication, or if all the Kirundi or French editions are out of print, a translation and publication license may be granted by the Minister in charge of cultural affairs to a Burundi publisher, solely for the purpose of teaching, scholarship or research.

A license may also be granted to any Burundi broadcasting organization for the sole purpose of educational or scientific and technical information broadcasts.

Such a license may also concern any text incorporated in an audiovisual fixation prepared and published for the sole purpose of systematic instructional activities.

Article 31. The license without commercial purpose referred to in the preceding Article shall terminate if the owner of the right of translation publishes a translation in French or Kirundi at a price comparable to that normally charged in Burundi. However, any copies already made before the termination of the license may continue to be distributed until their stock is exhausted.

Article 32. If works printed or published by an analogous process have not been put on sale in Burundi by the owner of the right of reproduction within a period, counted from its most recent publication abroad, of three years for works of science and technology, seven years for works of fiction such as poetry, novels, operas and plays, and five years for all other works, the Minister in charge of cultural affairs may grant to a Burundi publisher a license to reproduce and publish that edition with a view to its distribution to the general public or in connection with instructional activities.

Such a license may also be granted in the same form and under the same conditions if the edition put on sale in Burundi is out of print and has not been

reprinted within six months following a request sent by airmail to the owner of the right of reproduction.

Article 33. Any license as provided for in Articles 30 and 32 shall not be granted unless the applicant establishes that he has requested authorization from the owner of the right to make a translation and publish it or to reproduce and publish the edition and has been unable to obtain such authorization or, after due diligence on his part, has been unable to find him.

The applicant shall notify this request to any national or international information center that may have been designated in a notification deposited with the Director General of the World Intellectual Property Organization by the Government of the country in which the original publisher is believed to have his principal place of business.

Article 34. The name of the author shall be indicated on all copies of the translation or reproduction published under a license granted by virtue of Article 30 or 32.

Copies published under such licenses may not be exported out of Burundi; this prohibition shall be mentioned on each copy.

However, public entities of Burundi may send such copies either to Burundi nationals residing abroad or for educational or research uses. The sending of the copies must not have any commercial purpose.

Article 35. Publishers using licenses as provided for in Articles 30 and 32 shall pay just compensation in accordance with general practice into a special account for the benefit of the copyright owner. Sums paid into this special account may be freely converted into the currency of the country of which the author is a national.

Any sum made available to the author and not claimed within five years shall revert to the publisher. This prescription cannot be invoked against the author who alleges malpractice on the part of the publisher.

PART III

Procedure and sanctions

Article 36. The Minister in charge of cultural affairs shall, by ordinance, authorize representative associations of Burundi authors to represent in Burundi foreign bodies that ensure the protection of the rights of authors whose works are published or distributed in Burundi.

He shall lay down procedures for the assertion of the rights accruing to authors and for the reporting of infringements of those rights.

Article 37. An entertainment manager shall be bound to inform the author or his representatives of the exact program of public performances and furnish him with a certified accounting of his receipts. He shall pay the amounts of the stipulated remuneration to the author or his representatives when they fall due.

Article 38. The entertainment manager shall ensure the public performance of the work under technical conditions such as will guarantee respect for the author's intellectual and moral rights.

Article 39. Neither the author nor the owner of a portrait shall have the right to produce it or show it in public without the consent of the person portrayed or his successors in title for a period of twenty years after his death.

Subject to that consent, the owner shall have the right of reproduction, provided however that the copy does not bear the name of the author.

Article 40. Any malicious or fraudulent infringement of one of the author's rights shall be punishable by a fine of 10,000 to 1,000,000 Burundi francs. The same fine shall be applicable to those who knowingly sell, display, hire or stock in Burundi, or bring into Burundi, with gainful intent, unlawful reproductions of intellectual works within the meaning of Article 2.

Article 41. The malicious or fraudulent application on an art object or intellectual work, of the name of an author or of any distinctive sign adopted by him to designate his work shall be punishable by penal servitude for three months to two years and a fine of 10,000 to 1,000,000 francs, or one of these penalties alone.

The same penalty shall be applicable to those who knowingly sell, hire or stock in Burundi, or bring into Burundi, with gainful intent, art objects or intellectual works as referred to in the first paragraph.

Article 42. Article 14 of the Criminal Code shall be applicable to the infringements specified in Articles 40 and 41 in so far as the article subject to confiscation belongs to the condemned party.

Article 43. In cases of infringement specified in Articles 40 and 41, receipts may be seized as products of the infringement and awarded to the injured party as part of the civil redress to which he is entitled, but only in proportion to the share represented by his work in the amount of those receipts.

Article 44. At the request of the author the competent court may order the seizure, confiscation or destruction of copies infringing its rulings.

In cases of urgency, provisional seizure may be pronounced by simple ordinance at the request of the President of the Court of First Instance. Only that Court may thereafter decide on the confiscation or destruction of the copies in question.

Article 45. This Decree-Law shall apply to:

- works of Burundi nationals, or works of persons having their habitual residence in Burundi;
- works published for the first time in Burundi, irrespective of the nationality or residence of their authors;

— all works that have to be protected under conventions to which Burundi is party, and works of national folklore.

Article 46. All legislative and regulatory texts contrary to this Law, in particular the Decree of June 21, 1948, and Ordinance No. 11/208 of June 14, 1952, are hereby repealed.

Article 47. The Minister for Youth, Sports and Cultural Affairs shall be responsible for the implementation of this Decree-Law, which shall enter into force on the day of its signature.

(WIPO translation)

General Studies

The Brazilian Folklore and its Protection

Antonio CHAVES *

Correspondence

Letter from the Federal Republic of Germany

Report on the development of copyright between 1972 and 1979

Adolf DIETZ

*(Second Part) **

Calendar

WIPO Meetings

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

1980

- April 28 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property**
- June 9 to 13 (Paris) — Development Cooperation — Committee of Experts for a Model Statute for Authors' Societies for Developing Countries** (convened jointly with Unesco)
- June 9 to 16 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)**
- June 13 to 19 (Geneva) — Budapest Union (Microorganism) — Interim Committee (or Assembly)**
- June 23 to 27 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information**
- September 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Assemblies of the Paris, PCT and TRT Unions; Conference of Representatives of the Paris Union; Executive Committees of the Paris and Berne Unions)**
- 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)**
- November 17 to 21 (Geneva) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions** (convened jointly with Unesco)
- December 1 to 3 (Lomé) — Development Cooperation — African Regional Seminar on Copyright** (convened jointly with Unesco)
- December 4 and 5 (Lomé) — Development Cooperation — African Regional Seminar on Neighboring Rights** (convened jointly with ILO and Unesco)
- December 15 to 19 (Paris) — Berne Union and Universal Copyright Convention — Committee of Governmental Experts on Problems Arising from the Use of Computers** (convened jointly with Unesco)

UPOV Meetings

1980

- 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)

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)

Congress — May 5 to 9 (Geneva)

International Literary and Artistic Association (ALAI)

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)