Published monthly
Annual subscription:
fr.s. 125.—
Each monthly issue:
fr.s. 12.—

Copyright

19th year - No. 11
November 1983

Monthly Review of the
World Intellectual Property Organization (WIPO)

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ISSN 0010-8626

World Intellectual Property Organization

TANZANIA

Accession to the WIPO Convention

The Government of the United Republic of Tanzania deposited, on September 30, 1983, 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 United Republic of Tanzania, three months after the date of deposit of its instrument of accession, that is, on December 30, 1983.

WIPO Notification No. 125, of September 30, 1983.

Conventions Administered by WIPO

Consultation Meeting on the Implementation of the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties and the Additional Protocol to that Convention

(Paris, September 14 to 16, 1983)

Report

Introduction

1. In pursuance of paragraph 5013 of the Work Plan relating to Resolution 5/01 adopted by the General Conference of Unesco at its twenty-first session (Belgrade, September-October 1980) and of the decision taken by the Governing Bodies of WIPO at their November 1981 sessions, the Directors General of Unesco and WIPO organized a Consultation Meeting of the international non-governmental organizations which had been invited to send representatives to the Madrid Conference (1979) which adopted the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties (hereinafter referred to as "the Convention") and its Additional Protocol. The purpose of this meeting, which was held at Unesco House, Paris, from September 14 to 16, 1983, was to invite those organizations to express their views on the specific problems likely to arise in the course of implementing these international instruments.

2. The representatives of nine international non-governmental organizations participated in the meeting.

3. The list of participants is annexed to the present report.

Opening of the Meeting

4. On behalf of the Directors General of Unesco and WIPO, Ms Marie-Claude Dock, Director, Copyright Division of Unesco, and Mr. Claude Masouyé, Director, Public Information and Copyright Department of WIPO, welcomed the participants.

Election of the Chairman

5. At the proposal of the representative of the International Confederation of Societies of Authors and Composers (CISAC), seconded by the representative of the International Federation of Phonogram and Videogram Producers (IFPI), Professor André Françon, Secretary-General of the International Literary and Artistic Association (ALAI), was unanimously elected Chairman of the meeting.

General Discussion

6. Several participants congratulated the Secretariats on the quality of the documents prepared for the meeting; dealing comprehensively with various aspects of the question under study, these constituted an excellent working basis for discussions.

7. The participants unanimously emphasized the fact that, despite the measures taken by Unesco and WIPO and by the international non-governmental organizations concerned to alert member States to the value of acceding to the Convention, only four countries (Czechoslovakia, Egypt, India and Iraq) had to date deposited their instruments of accession or ratification, and one of them (Czechoslovakia) had ratified the Protocol. Several participants stressed that the elimination of double taxation could be achieved only if there was a broad consensus among States in that regard. They then endeavored to elucidate the reasons for which the Convention had not, to date, received wider acceptance.

8. For some, the major cause lay in the fact that the Convention constituted a compromise between two extreme positions, namely, taxation by the State of residence of the beneficiary, and taxation by the State of source of the royalty. This might give rise to an interpretation whereby the Convention institutionalized double taxation instead of diminishing it.

9. Several participants referred to the existence of a large number of bilateral agreements in the field of double taxation, and recalled that a number of States considered this to be an adequate state of affairs and regarded their acession to a multilateral instrument as superfluous.

10. Other participants emphasized that, in the final analysis, the Convention itself encouraged States to settle their respective problems by means of bilateral agreements, for which it offered an optional model.

11. One participant was of the opinion that the measures designed to enable double taxation to be avoided would be effective only if States accepted to tax royalties only in the State of residence of the beneficiary.

12. Another participant highlighted the interest of attempting to harmonize the content of the bilateral agreements.

13. The Secretariats indicated that the elaboration of the Convention had been intended to dissociate copyright royalties from other taxable revenues, albeit without seeking to do away with bilateral agreements.

14. In this regard, several participants urged that the attention of the competent authorities in the States be drawn to the fact that copyright should benefit from a preferential system. In the course of the discussion, several reasons were put forward in support of such a system: the particular legal nature of the system of copyright and neighboring rights, the immaterial nature of creative activity, the irregularity of the economic return on royalties, the limited scope of the tax base in relation to total taxable income, the place that literary and artistic production occupied in cultural exchanges among States.

15. Several participants also wondered if it would not be useful to take steps at the international level to collect information on the content and operation of existing bilateral agreements in the field of double taxation.

16. The Secretariats informed the meeting that, subject to the approval of their respective Governing Bodies, the publication of a booklet aimed at arousing the interest of the States in the Convention would be undertaken jointly by Unesco and WIPO during the 1984-1985 biennium. A survey might also be conducted among the States during the next biennium with a view to gaining a better knowledge of how the bilateral agreements operated.

Article-by-Article Examination

I. Convention

17. The general debate was followed by a detailed article-by-article examination of the provisions of the Convention and of the "Points for Discussion" presented to the meeting by the Secretariats in document UNESCO/WIPO/DT/CM/2.

Article 1: Copyright Royalties

18. Having recalled that the examination of the Convention which they were about to undertake should not in any circumstance be understood as an interpretation thereof, since only the States were empowered to make such interpretation, the participants presented many observations with a view to formulating an explanatory commentary on the notion of copyright royalties as defined in Article 1 of the Convention.

19. In a general manner, it was considered that Article 1 should be interpreted broadly, the only exceptions to be taken into account being those explicitly provided for in the text itself. Consequently, apart from the cases mentioned in paragraphs 2, 3 and 4 of the said article, all the payments deriving from the exercise of copyright should be covered by the Convention. In this regard, the Secretariats were requested to draw up an exhaustive list of all payments received for the use of, or the right to use, a copyright in a literary, artistic or scientific work.

20. Two specific cases were in particular mentioned: that of commissioned works and that of public lending right. It was considered that, in the latter case, of the total sum paid by the user, only the part due to the authors in accordance with national law was covered by Article 1. As for commissioned works, it was pointed out that in several countries payments were assimilated to a wage and therefore considered as ordinary income and not as copyright royalties.

21. The attention of participants was drawn to the case where payments made in the State of source were not transferred to the State of residence of the beneficiary. It was therefore important to know if transfer constituted a condition *sine qua non* for the application of the Convention.

22. The participants were unanimous in considering that the provisions of the Convention were applicable whether or not the royalty was transferred. It was emphasized that cases where the royalty was not transferred to the country of residence were in any case limited, being those in which the beneficiary chose either to leave the royalty in the State of source or to deposit it in a State other than the State of source or of residence, or being situations where the royalties were blocked in the State of source in consequence of exchange control regulations or, finally, situations in which payments were settled in the form of compensation.

23. On the question as to whether a possible interpretive declaration of the definition of copyright royalties (Article 8, paragraph 3) could be made only at the time of deposit of the instruments of ratification, acceptance or accession, or could be made at any later time, the opinion was expressed that the necessary security in legal relations between States, as well as the spirit of the Vienna Convention on the Law of Treaties, would tend to suggest that such a declaration should be made at the time of deposit of the instrument. It was, however, pointed out that Article 8, paragraph 3, referred to cases where the Contracting State adopted domestic measures, and that it was not impossible that such adoption might occur at a date subsequent to acceptance of the Convention.

Article 2: Beneficiary of Copyright Royalties

24. The problem here was to determine whether the definition of the "actual beneficiary" contained in this article should be taken in a broad sense of the term and not be limited to the conventional definition of the author.

25. Several participants considered that the term should be considered to include all authors, whether individuals or legal entities, as well as their heirs and successors in title.

26. Moreover, it was acknowledged that the term could also include societies of authors and bodies responsible for collecting royalties, but excluded literary or theatrical agents, who did not act as assigns of the author but as persons exercising a promotional activity of a commercial nature and being remunerated in that capacity.

27. With regard in particular to societies of authors, it was observed that their situation in this respect depended on the legal relationship between them and their members, which might result in the case of certain bilateral agreements in their being considered, for purposes of taxation, as being the beneficiaries of the royalties.

Article 3: State of Residence of the Beneficiary

28. It was pointed out that this article relating to the State of residence of the beneficiary provided a broad definition of the resident, with the result that its application might well lead, in certain cases, to a person being deemed to be a resident in several States.

29. Certain participants noted that according to tax legislation a resident of a State was any natural person or legal entity liable to tax in that State. Consequently, criteria should be decided upon to enable the place of actual residence of the beneficiary to be specified. For that purpose, it was unanimously recommended that recourse be had to the criteria set forth in Article IV of the optional model bilateral agreement attached to the Convention.

Article 4: State of Source of Royalty

30. As regards this article, participants pointed out that the criterion adopted to designate the State of source referred to the place of establishment of the debtor responsible for the royalties but failed to define the "permanent establishment" and the "fixed base" through which that debtor carried on his activity.

31. It was pointed out by some participants that the reference to commercial concepts was liable to bring these provisions even closer to ordinary tax law; this hardly served to bring out the specific nature of copyright or to argue in favor of its receiving special treatment.

32. Other participants suggested abiding by the conventional terms and drawing the attention of Contracting States to the importance of clarifying the concepts of "permanent establishment" and "fixed base" within the framework of bilateral agreements to be concluded between them.

Article 5: Fiscal Sovereignty and Equality of Rights of States

33. As to the question of whether the provisions contained in this article, relating to respect for the fiscal sovereignty of the State of source and of the State of residence and to the equality of the taxation rights of the two States, can be reconciled with the undertaking to be made under Article 8 of the Convention, it was considered that in reality the States undertook only to make every effort to avoid, eliminate or reduce the effects of double taxation without infringing one another's fiscal sovereignty.

34. One participant having remarked that the notion of the equality of the two States' right to tax was introduced into the Convention on the proposal of delegations of developing countries for the purpose of re-establishing a certain balance between the State of residence which benefited from the taxation of copyright royalties and the State of source to which that right was not always granted, it was urged that particular attention be given to such recognition at the time of negotiating bilateral agreements in the event of the State of source being a developing country.

Article 6: Fiscal Non-Discrimination

35. One participant having observed that there existed a contradiction between this article and certain practices of tax discrimination based on sex in some States, it was felt that optimal application of this provision of the Convention would serve to abolish or at least to minimize such discrimination.

Article 7: Exchange of Information

36. With regard to this article it was pointed out that, since the competent authorities responsible for undertaking exchanges of information had not been defined, as it was provided that they should be in the bilateral agreement, it would be for the fiscal administration of each State to specify them.

37. As regards the nature of the exchanges of information and their content it was urged that these be limited to information which would, for example, make it possible to establish documentation on tax legislation relating to copyright, and exclude all information of a confidential nature on the situation of the taxpayer.

Article 8: Means of Implementation

38. This article defines the scope of the undertaking made by the States under the Convention. That undertaking was considered by the participants to constitute an obligation in respect of methods and not an obligation in respect of results. It was a kind of declaration of good intentions, the sole consequence of which was the pledge by the Contracting State to endeavor to avoid double taxation and, should it subsist, to eliminate it or to reduce its effect.

39. Regarding the question of whether the bilateral agreements concluded previously by Contracting States and that were not in conformity with the provisions of the Convention should be compulsorily revised, some participants invoked the principle of acquired rights in order to rule out such revision. Others, on the contrary, expressed the view that revision of these agreements would appear to be desirable, above all if it was done in the interest of authors. Yet others, finally, mindful of the complications which might arise when one of the contracting States was not a party to the Convention, considered it preferable to leave it to the parties concerned to settle the matter by bilateral negotiations.

Article 9: Members of Diplomatic or Consular Missions

40. This article did not give rise to any questions as to its application.

Article 10: Information

41. As to the question of whether the expression "information of a normative nature" concerning taxation of copyright royalties should be considered as relating only to information on tax legislation in the field of copyright or also to economic and financial information that was not confidential, the participants favored the first solution, preferring to abide by the letter of the text of the Convention.

Article 11: Ratification, Acceptance, Accession

42. This article did not give rise to discussion.

Article 12: Reservations

43. It was noted that, irrespective of the reservations explicitly provided for in this article, the General Report of the Madrid Conference raised the possibility of interpretive declarations on the part of the States with regard to each of the articles of the Convention. The participants, who examined this question at length with reference to Article 1, considered it preferable that such interpretive declarations be made at the time of ratification, acceptance or accession.

44. As concerns the reservations provided for in the Convention, the Secretariats indicated that the Czechoslovak Socialist Republic notified at the time of ratifying the Convention that it "does not consider itself bound by the provisions of Article 17, paragraph 1." For its part, the Government of India

notified at the time of its accession that it "does not consider itself bound by Articles 1 to 4 and 17 of the Convention."

Articles 13 to 17

45. Articles 13 to 17 relating to the entry into force, denunciation and revision of the Convention and to the languages of the Convention and notifications, and the interpretation and settlement of disputes, did not give rise to discussion, being customary formal provisions.

II. Additional Protocol

1. Principal Categories of Beneficiaries

46. It was noted that the Additional Protocol to the Convention concerned alike performers, producers of phonograms and broadcasting organizations, and that no provision of the Protocol allowed for the possibility of limiting its application to one or other of the three categories. Consequently, it was considered that its acceptance should apply to the three categories of beneficiaries together.

47. As concerns their definition, it was recalled that, since the provisions of the Convention became applicable to these beneficiaries by the fact of accepting the Protocol, the criterion to be adopted was the reference to the domestic legislation of the Contracting State in which the royalties were originally due. However, the view was expressed that, in order to define the said beneficiaries, legal regulations should be guided by the relevant international instruments, as for example the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention, 1961), the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention, 1971) and the Recommendation Concerning the Status of the Artist (1980).

48. Moreover, it was recalled that it was not necessary for a State to be party to the Rome Convention in order to accede to the Protocol.

2. Application of Article 1, Paragraph 3, of the Convention

49. It was considered that, as in the case of copyright, payments made for the purchase, rental or loan of a material base did not constitute royalties for the purposes of the Protocol.

3. Definition of the Beneficiaries of the Protocol on the Fiscal Level

50. It was considered that the definition for tax purposes of performers, producers of phonograms and broadcasting organizations should not be different from that deriving from national legislations governing intellectual property and the applicable international instruments.

51. Moreover, it was observed that the remarks contained in paragraphs 26 and 27 in connection with bodies responsible for collecting copyright royalties could also apply to the field of "neighboring" rights, notably as concerns performers.

4. Nature of Activities Pursued by the Beneficiaries of the Protocol

52. Having noted that such activities, like the payments resulting therefrom, could be varied in their nature, it was considered that the activities covered by the Protocol should be limited to those that give rise to royalties by virtue of so-called neighboring rights.

5. Degree of Application under the Protocol of Certain Provisions of the Convention

53. It was emphasized that the aim of the Protocol was to extend the application of the Convention to the holders of so-called neighboring rights, and that in consequence all the provisions of the Convention applied *mutatis mutandis*. However, it was noted that Article 9 concerning the fiscal privileges of the members of diplomatic or consular missions could apply only, it would appear, to the category of performers.

Recommendations

54. The participants were unanimous in their wish that every effort be made to avoid double taxation of copyright royalties and, should it subsist, to eliminate it or to reduce its effect. Irrespective of the results that had been or might be obtained through domestic measures or bilateral agreements, the Convention represented in this regard a particularly useful means of action. Accordingly, it was considered advisable to seek to promote a better understanding of this instrument on the part of the competent authorities of the States. A list of the arguments in favor of a tax system specifically relating to copyright royalties should be established, and the explanatory pamphlet provided for in the respective draft programs and budgets of Unesco and WIPO should be disseminated as widely as possible. Moreover, a survey on the operation of existing bilateral agreements in this field would be useful.

55. The participants were unanimous that the preceding considerations were equally valid for the three categories of beneficiaries mentioned in the Additional Protocol, and urged that any measure or activity likely to promote acceptance of the Convention should also be aimed at securing acceptance of the Additional Protocol.

Adoption of the Report and Closing of the Meeting

56. The meeting unanimously adopted the present report. After the customary expressions of thanks, the Chairman declared the meeting closed.

List of Participants

I. International Non-Governmental Organizations

European Broadcasting Union (EBU): R. Laurent; R. Contrepas. **International Association of Art (IAA):** C. Bleynie. **International Confederation of Societies of Authors and Composers (CISAC):** N. Ndiaye; D.R. Miglio; L.L. Devis; J. Juranek; J.A. Azula; B. Revuelta; M.J. Freegard. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Phonogram and Videogram Producers (IFPI):** E. Thompson; C. Frew. **International Group of Scientific, Technical and Medical Publishers (STM):** P. Nijhoff Asser. **International Literary and Artistic Association (ALAI):** A. Françon; M.J. Freegard. **International Publishers Association (IPA):** J.-A. Koutchoumow. **International Theatre Institute (ITI):** J. Sito.

II. Secretariat

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock *(Director, Copyright Division)*; A. Amri *(Copyright Division)*.

World Intellectual Property Organization (WIPO)

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

Nairobi Treaty on the Protection of the Olympic Symbol

INDIA

Ratification

The Government of the Republic of India deposited, on September 19, 1983, its instrument of ratification of the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty entered into force, with respect to India, on October 19, 1983.

Nairobi Notification No. 14, of September 22, 1983.

UGANDA

Accession

The Government of the Republic of Uganda deposited, on September 21, 1983, its instrument of accession to the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty entered into force, with respect to Uganda, on October 21, 1983.

Nairobi Notification No. 15, of September 22, 1983.

National Legislation

Decree of the Minister for Culture

supplementing Decree No. 9 of December 29, 1969, implementing the Copyright Act No. III of 1969

(No. 15, of July 12, 1983) *

Article 1

The enumeration contained in Article 1(1) of Decree No. 9 of December 29, 1969,[1] as amended by Decrees No. 4 of December 7, 1978,[2] and No. 15 of November 20, 1982,[3] implementing the Copyright Act (hereinafter referred to as "the Implementing Decree") shall be supplemented as follows:

[artistic photographs,]

"computer programs and the related documentation (hereinafter referred to as 'software')."

Article 2

Article 12(1) of the Implementing Decree shall be replaced by the following provision:

"*Article 12.* (1) If the employer enters into a contract for use of the work with a third party during the validity of his right of use, under Article 14 of the Copyright Act, 60 to 80 percent or, *in the case of software, 10 to 30 percent* of the amount of royalties — according to the decision of the employer — shall accrue to the author, the employer being bound to pay the respective sum within eight days following the receipt by him of the royalties. *In the case of software, the employer may, in the employment contract or in any other manner, lay down a different due day or subject it to conditions.* If the conclusion of the contract with a third party for the use of the work lies within the sphere of the activities of the employer, the latter may also set the share of the author, in view of the costs incurred in the creation of the work, at a level lower than 60 percent or, *in the case of software, 10 percent* of the amount of royalties."

Article 3

The enumeration contained in Article 20(2) of the Implementing Decree shall be supplemented as follows:

[The contracts referred to in paragraph (1) may be concluded through the intermediary of]

. . . .

"— the foreign trade enterprise entitled thereto or the commercial organization vested with the right to carry on foreign trade activity for the sale of software;"

[— construction bureaux for works of architecture.]

Article 4

Article 37 of the Implementing Decree shall be replaced by the following provision:

"*Article 37.* (1) The fine adjudged by the court shall be paid — except in the case of paragraph (2) — to the Ministry of Culture. The Minister for Culture shall use the amounts thus paid for the promotion of culture and the welfare of authors.

(2) In the case of unauthorized use of software, the fine adjudged by the court shall be paid to the Central Statistical Office. The amounts thus paid shall be used for the purposes of software development."

Article 5

Article 39(2) of the Implementing Decree introduced by Decree No. 15 of November 20, 1982, shall be replaced by the following provision:

"(2) The fee due to the author for the public performance and for the reproduction by means of equipment designed for mechanical performance (e.g. sound recording, radio and television broadcasts, fixation of film and video background

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* Published in *Magyar Közlöny*, of July 12, 1983. English translation provided by the Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS) and revised by WIPO.

[1] See *Copyright*, 1972, p. 201.

[2] *Ibid.*, 1979, p. 111.

[3] *Ibid.*, 1983, p. 166.

music) of musical works already made available to the public, for the sound recording of literary works already made available to the public, for the public performance of dramatic works, and for the use of software, provided the fees under a contract for the use of software are due to other than legal persons and excepting the cases governed by Article 12(1), shall be paid to the Bureau for the Protection of Authors' Rights."

Article 6

(1) This Decree shall come into effect on the day of its promulgation. However, the provisions on software remuneration in Article 2 shall also apply to contracts for which the whole amount of the remuneration has not yet been paid.

(2) The second sentence of Article 38(3) of the Implementing Decree shall cease to have effect.

General Studies

Protection of Industrial Designs Between Copyright and Design Laws: A Comparative Study

Herman COHEN JEHORAM *

Correspondence

Letter from Hungary

Mihály FICSOR *

International Activities

International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)

Assembly and Annual Meeting

(Munich, September 5 to 7, 1983)

Note *

The International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP) held its annual meeting and the third session [1] of its Assembly in Munich in September 1983.

WIPO provided the interpretation facilities and other financial support, including the travel expenses of some officers of the Executive Committee and members of the Association coming from developing countries. The European Patent Organisation provided the conference room. Seventy professors and researchers from 25 countries participated in the meeting. WIPO was represented by Mr. Gust Ledakis, Legal Counsel, who is also a member of the Association.

The Assembly of the Association noted with approval the reports on the activities and on the accounts of the Association, presented by its President, Professor Friedrich-Karl Beier (Federal Republic of Germany). Reports were also presented by the chairmen of three working committees, on the work of their respective committees: by Professor E.D.

* Prepared by WIPO.

[1] For a note on the second session of the Assembly, see *Copyright*, 1982, p. 376.

Aracama Zorraquín (Argentina), on the preparation of curriculum materials for teaching in developing countries; by Professor Alberto Bercovitz (Spain), on the protection of the results of academic research; by Professor Glen E. Weston (United States of America), on orientation and teacher exchange programs.

The Assembly also expressed its satisfaction that the membership, which had initially been 69 in July 1981 when the Association was founded, had increased to 187 by September 1982, and had further increased to 220 as of the beginning of the meeting (from 41 countries, including from 17 developing countries). The Assembly also approved proposals by the Executive Committee for the program and activities and the budget for 1984.

Working sessions, consisting of all the members who were in attendance, were held under the chairmanship of those professors hereafter mentioned, at which reports were presented by different members, on the following topics: problems of *teaching* intellectual property with particular emphasis on the needs of developing countries (Chairman: Professor E.D. Aracama Zorraquín (Argentina)), with reports by Professors Janusz Szwaja (Poland) Nébila Mezghani (Tunisia) and Stojan Pretnar (Yugoslavia)); *copyright* problems of reprography in teaching and research (Chairman: Professor Gunnar Karnell (Sweden)), with reports by Professors Karnell, Victor Nabhan (Canada), André Françon (France) and Dr. Paul Katzenberger (Federal Republic of Germany); modern *research* methods in intellectual property (Chairman: Professor Gerhard Schricker (Federal Republic of Germany)), with reports by researchers Dieter Stauder (Federal Republic of Germany) and F. Henning-Bodewig (Federal Republic of Germany)); the *European Patent System* (Chairman: Professor Friedrich-Karl Beier (Federal Republic of Germany)), with reports by Dr. Kurt Haertel (Federal Republic of Germany) and Dr. Jenö Staehelin (European Patent Office). The last-mentioned working session was also attended by Dr. h.c. J.B. van Benthem (President, European Patent Office) who, in view of his research and publication activities and contribution to the development of industrial property law, was invited to become a member of the Association.

On the basis of proposals made by the Nominations Committee, elections also took place. The officers, all of whom also constitute the members of the Executive Committee, will be as follows for the next two-year period (starting on September 8, 1983): President: Professor E.D. Aracama Zorraquín (Argentina); President elect: Professor William R. Cornish (United Kingdom); Vice-Presidents: Professors Gunnar Karnell (Sweden), Nébila Mezghani (Tunisia), Janusz Szwaja (Poland), and Glen E. Weston (United States of America); Treasurer: Professor Alberto Bercovitz (Spain). Professor Friedrich-Karl Beier (outgoing President) was designated an *ex officio* member.

The Association adopted a resolution, prepared by its Executive Committee, the text of which is reprinted below.

The Assembly agreed to hold its annual meeting in 1984, in Geneva, at the headquarters of WIPO.

Resolution

The International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP),

Meeting in Munich on September 7, 1983,

I.

Recognizing that the protection of intellectual property by the law on patents and inventions, industrial designs, trademarks, unfair competition, plant varieties, copyright, transfer of technology and antitrust plays a significant role in the economic, technological and cultural development of all nations including that of developing countries;

Convinced that the efficacious creation, administration, defense and the transfer of intellectual property rights presupposes, among other things, that the teaching and research in the field of intellectual property receive appropriate attention from universities and other educational institutions;

Notes with concern that the teaching of and research in intellectual property at university level, although varying from country to country, is generally not commensurate with the economic, technological and cultural role of intellectual property and that this problem is particularly felt in developing countries;

Welcomes with appreciation the existing efforts of international organizations, as well as national institutes and centers devoted to teaching and research in the field of intellectual property, in providing assistance and facilities for teachers and researchers in that field;

Urges that appropriate action should be taken by governments, universities and other competent authorities of all countries in order to ensure that the teaching of and the research in the law of intellectual property becomes an effective ingredient of the educational process satisfying the societal need to train qualified personnel capable of understanding and applying intellectual property concepts and instruments in governmental policy, and in scientific, technical, industrial and commercial practice in order to promote scientific, economic and cultural progress;

II.

Recommends that such action should comprise the following measures:

— Universities should offer within their law faculties teaching on the law of intellectual property. Such teaching should be offered in the form of a general introduction in basic courses to all students and, additionally, in the form of special courses on industrial property and copyright law, including the law on patents and inventions, industrial designs, trademarks, unfair competition, plant varieties, copyright, transfer of technology and antitrust. These special courses should at least be offered as optional courses at the graduate or postgraduate level and they should be given appropriate recognition for obtaining law degrees and bar examinations;

— The teaching of the law of intellectual property should take due account of its international and regional aspects as well as of its economic, social and cultural implications;

— The teaching of the law of intellectual property should not be restricted to universities, in particular to law faculties, but should rather be extended to other faculties, in particular those dealing with economics and social science, and to technical schools where engineers and technical and scientific personnel are trained and to other schools where persons engaged in the creation of the different forms of intellectual property receive their professional education, such as academies of art, film academies and the like;

— Universities and other institutions engaged in teaching and researching intellectual property law should be assisted with necessary and sufficient teaching, learning and research materials;

— Contacts should be established and intensified between teaching and research institutions on the one hand and governmental and intergovernmental agencies and bodies responsible for the administration of intellectual property, such as patent and copyright offices, on the other hand, and between teaching and research institutions and practitioners of intellectual property and their organizations such as inventors, authors, artists, lawyers, patent agents and judges;

— Teachers and researchers should be enabled, in particular by fellowship programs, to study the experience and particular problems in other countries; due attention should be given to enable exchanges of views and experience of international congresses and meetings;

— National and international programs of development cooperation should be strengthened to provide greater support for promoting the exchange of teachers and researchers in intellectual property between developed and developing countries and for assisting teachers and researchers in developing countries with sufficient teaching and learning material.

Book Reviews

International Copyright and Neighbouring Rights, by *Stephen M. Stewart*. One volume of XII-740 pages. Butterworths, London, 1983.

The range of literature on copyright and neighboring rights has been enlarged by the appearance of another important book. The author of this impressive publication has prepared it with a view to providing practitioners, advisers in industry, academics and students with a textbook or reference book on this complex subject matter.

Part 1, which deals with international law, presents the history, the philosophy and the general principles of international copyright and neighboring rights. Separate chapters are devoted to each of the worldwide multilateral conventions, and one chapter to two European regional agreements.

The chapter dealing with the Berne Convention comprises a historical survey of its coming into existence and the subsequent stages of its development, up to the 1971 Paris Act. It is followed by a concise but thorough analysis of the basic principles and the most important provisions of this latest Act. However, the special provisions for developing countries, including the so-called ten-year regime for translations, appear under the heading of the Universal Copyright Convention.

The essence of neighboring rights is dealt with in a separate chapter. The author makes a distinction between neighboring rights in the narrow sense (the rights of performers, producers of phonograms and broadcasting organizations) and such rights in a wider sense (such as the rights in photographs in certain countries, the rights of film producers in certain countries, or the rights in first editions of books); the second category is referred to as "related rights." This chapter is followed by three other chapters devoted also to neighboring rights, each dealing with one of the three present multilateral conventions (Rome Convention, Phonograms Convention, Satellites Convention).

One of the most interesting chapters is the one in which the author discusses the future of international copyright. He analyzes separately three categories of challenges: (i) to international law, (ii) to national law and (iii) to the effectiveness of copyright. The first category has its origin in the political concepts opposed to copyright, in the needs of developing countries or in the economic approach of governments. In the latter case, the author considers that a government will be inclined to ratify an international copyright or neighboring rights convention if it is of the opinion that the national prestige attached to the export of works of national authors equals the difference between the country's total imports and exports of copyrights. The challenges to national law come from what the author calls "consumerism," from the difficulties of enforcement and from the cases where copyrights are "taken out of the copyright sphere." Lastly, among the challenges to the effectiveness of copyright the author examines the problems raised by home taping, reprography, computers, videograms, cable diffusion and satellites.

Part 2 presents "a synopsis of the world's most important jurisdictions." The authors of these synopses are eminent copyright experts, most of whom are well-known authorities on the international scene. This of course considerably enhances the value of the book. The contributors to Part 2 are the following: Robert Dittrich (Austria), Pierre Chesnais (France), Eugen Ulmer (Federal Republic of Germany), Valerio De Sanctis and Vittorio De Sanctis (Italy), Agne Henry Olsson (Scandinavia), William Wallace (United Kingdom), Mark Bogulavsky (Soviet Union), Hans Hugo von Rauscher auf Weeg (EEC), Barbara Ringer (United States of America), Henry Jessen (Latin America), Krishnaswami Ponnuswami (India), Yoshio Nomura (Japan) and James Lahore (Australia).

Seven appendices contain the full texts of the conventions dealt with in Part 1.

An ambitious undertaking like this one naturally cannot be immune from criticism. A first remark could be made concerning the choice of the countries whose national laws are presented to the reader. While considerable space has been devoted to Western European countries, only the Soviet Union is mentioned of all the socialist countries of Eastern Europe. One or two summaries of the legislation of the latter countries, which differ from each other on certain specific questions in the field of copyright or neighboring rights, might have made for a more complete picture of the situation in Europe. It is also regrettable that none of the African countries — some of which have recently adopted modern and complete laws in this field — appear on the list.

Consultation of this work on a comparative basis is not always easy because of the individual approach adopted by the authors of each of the outlines of national laws. That seems to be unavoidable, however, in view of differences in basic notions of legislation and legislative structure in a particular country or group of countries. Be that as it may, the excellent index at the end of the book helps to overcome this minor difficulty.

M.S.

Satellite Television and Third-Party Rights, by *Abdallah Chakroun.* One volume of 286 pages. ASBU, Tunis, 1981.

This work, the only such one in Arabic, is written by the Secretary General of the Arab States Broadcasting Union (ASBU), one of the specialized agencies of the League of Arab States. It contains a special chapter dealing with intellectual property (Chapter II, pages 117 to 142).

In that chapter Mr. Chakroun starts by defining what is meant by copyright, and then answers the question whether national protection alone is sufficient. This is followed by an analysis, of the three neighboring rights conventions, namely the Rome, Geneva and Brussels Conventions.

In that connection he mentions that no Arab country is yet party to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

With regard to the Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, Mr. Chakroun stresses the importance of this Convention to Arab countries, more especially in view of the growth of cassette piracy and the existence of important phonogram industries in a number of Arab countries.

The author closes the chapter with an analysis of the state of copyright legislation in Arab countries and their membership in the two main international conventions (Berne and UCC), with a brief account of the Model Law for Developing Countries.

F.M.

Public Lending Right. Reports of an ALAI-Symposium and additional materials. One volume of 198 pages. Edited by H. Cohen Jehoram. Kluwer Law and Taxation Publishers, Deventer, The Netherlands, 1983.

This volume, which deals with a comparatively new category of authors' rights, consists of two parts. The first is a collection of updated reports submitted at the Symposium of the International Literary Artistic Association (ALAI), held in September 1977 in Antwerp, on the lending and hiring of copies of protected works. The second contains articles on the situation in those countries where some public lending right system exists, but which was not reported on at the said symposium.

The authors of the reports reproduced in the first part are: F. Gotzen (Belgium), W. Weincke (Denmark), A. Dietz (Federal Republic of Germany), P.-L. Aro (Finland), A. Françon (France), M. Fabiani (Italy), J.H. Spoor (Netherlands), H. Cohen Jehoram (Netherlands), G. Karnell (Sweden), D. de Freitas (United Kingdom), J. Corbet (Belgium).

The articles in the second part have been contributed by P. Banki (Australia), S.R. Pétursson (Iceland), A.L. Sijthoff-Stray (Norway), E.A. Seeman (United States of America), J.W. Sumsion (United Kingdom).

Calendar

WIPO Meetings

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

1983

December 5 to 7 (Geneva) — Berne Union, Universal Copyright Convention and Rome Convention — Snbcommittees of the Executive Committee of the Berne Union, of the Intergovernmental Copyright Committee and of the Intergovernmental Committee of the Rome Convention, on Cable Television (convened jointly with ILO and Unesco)

December 8 and 9 (Geneva, ILO Headquarters) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)

December 12 to 16 (Geneva) — Berne Union — Execntive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

December 12 to 16 (Geneva) — Madrid Union — Assembly

1984

January 17 (Geneva) — Informal Meetings with International Non-Governmental Organizations Concerned with Industrial Property or Copyright and Neighboring Rights

January 30 to February 3 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)

February 27 to March 24 (Geneva) — Revision of the Paris Convention — Diplomatic Conference

March 5 to 9 (Geneva) — Joint International Unesco-WIPO Service for Facilitating the Access by Developing Countries to Works Protected by Copyright — Working Group on Model Contracts Concerning Co-Publishing and Commissioned Works (convened jointly with Unesco)

April 2 to 6 (Paris) — Committee of Experts on the Question of Copyright Ownership and its Consequences for the Relations between Employers and Employed or Salaried Authors (convened jointly with Unesco)

June 4 to 8 (Geneva) — Committee of Experts on Private Copying of Works Protected by Copyright (convened jointly with Unesco)

June 18 to 22 (Geneva) — Group of Consultants on Legislative Provisions for Publishing Contracts (convened jointly with Unesco)

September 24 to 27 (Geneva) — Ordinary Sessions of the WIPO Coordination Committee and the Executive Committees of the Paris and Berne Unions

October 22 to 26 (Geneva) — Sub-Committee of the Intergovernmental Committee of the Rome Convention on the Application of the Said Convention in the Light of New Communication Techniques (convened jointly with ILO and Unesco)

November 26 to 29 (Paris) — Committee of Experts on Copyright Problems Related to the Rental of Material Supports of Works (convened jointly with Unesco)

December 10 to 14 (Paris) — Committee of Experts on the Intellectual Property Aspects of the Protection of Folklore at the International Level (convened jointly with Unesco)

UPOV Meetings

1984

April 4 and 5 (Geneva) — Administrative and Legal Committee

April 6 (Geneva) — Consultative Committee

May 15 to 17 (La Minière) — Technical Working Party on Automation and Computer Programs

June 11 to 15 (Bet Dagan) — Technical Working Party for Vegetables

June 26 to 29 (Lund) — Technical Working Party for Agricultural Crops, and Subgroups

August 6 to 10 (Hanover) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroups

September 25 to 28 [or October 8 to 11] (Valencia) — Technical Working Party for Fruit Crops, and Subgroups

October 16 (Geneva) — Consultative Committee

October 17 to 19 (Geneva) — Council

November 6 and 7 (Geneva) — Technical Committee

November 8 and 9 (Geneva) — Administrative and Legal Committee

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

Non-Governmental Organizations

1984

Council of the Professional Photographers of Europe (EUROPHOT)
Congress — March 17 to 21 (Darmstadt)

International Confederation of Societies of Authors and Composers (CISAC)
Legal and Legislation Committee — May 8 to 12 (Corfu)
Congress — November 12 to 17 (Tokyo)

International Council on Archives (ICA)
Congress — September 17 to 21 (Bonn)

International Publishers Association (IPA)
Congress — March 11 to 16 (Mexico)