

MAIN PROGRAM 10

Development of Copyright and Related Rights

10.1 Implementation of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty

10.2 Protection of Audiovisual Performances

10.3 Protection of Databases

10.4 Protection of the Rights of Broadcasting Organizations

10.5 Copyright, Related Rights and Digital Technology

Main objectives:

- ◆ To promote adherence to, and appropriate implementation of, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.
- ◆ To adopt new international norms and offer guidance to Member States, concerning the rights of performers in respect of audiovisual performances, intellectual property in databases, and the rights of broadcasting organizations and of distributors of cable-originated programs.
- ◆ To follow developments in digital technology, particularly global networks such as the Internet, to offer guidance on the implications for copyright and related rights, and to promote related consultation and cooperation among interested groups.
- ◆ To ensure that WIPO's activities in the field of copyright and related rights be better prepared, harmonized and more transparent.

Current situation

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) offer appropriate responses to the issues raised by digital technology, particularly by global networks such as the Internet. To enter into force, however, they each require 30 instruments of accession or ratification; to obtain that, active promotion activity is needed. The December 1996 Diplomatic Conference which adopted the two treaties also had on its agenda the issues of the rights of performers in respect of “audiovisual performances” and of a possible *sui generis* protection system for databases, but did not adopt norms on those issues. Preparation of new international norms, or at least offering guidance, on those issues, as well as on two further issues identified during preparatory work on the treaties – namely, the rights of broadcasting organizations and of distributors of cable-originated programs and the intellectual property protection of folklore – has been left, initially, for the 1998-99 biennium. The

rapid growth in the applications of digital technology, particularly in global networks such as the Internet, creates a need for continuous attention from the viewpoint of the protection, exercise and enforcement of copyright.

**Strategy
for the
future**

Effective implementation of the WCT and WPPT will be essential if the Internet and other global digital networks are to be fully used as a market place for cultural and information industries, in due accordance with the public interest. Hence it will be a priority in this biennium to promote adherence to, and implementation of, these treaties, and secure their entry into force as soon as possible. The further development of law in the fields noted above will serve to extend the scope of international protection of copyright and related rights in the emerging information society. WIPO activities aimed at developing the international system for protecting copyright and related rights will be better harmonized, more thoroughly prepared and more transparent, partly through the operations of a new Standing Committee on Copyright and Related Rights.

**New
program
activities**

- ◆ Establishment of a Standing Committee on Copyright and Related Rights to consider emerging issues in this field, and to absorb and carry out, at a suitable point, the functions of existing committees of experts on issues currently being addressed in the progressive development of international law in copyright and related rights.
- ◆ Promotion of the adherence to, and implementation of, the WCT and WPPT.
- ◆ Preparatory work to formulate and adopt new international norms on the rights of performers in respect of audiovisual performances, on intellectual property in databases, and on the rights of broadcasting organizations and distributors of cable-originated programs.
- ◆ Regular monitoring of and prompt reaction to developments in digital technology, particularly global networks such as the Internet, from the viewpoint of copyright and related rights; offering guidance in this field, both to WIPO Member States and to interested groups.

**Expected
results**

- ◆ Progress in adherence to, and implementation of, the WCT and the WPPT, so that they may enter into force not later than in the 2000-01 biennium.
- ◆ The adoption of a Protocol to the WPPT on Audiovisual Performances.
- ◆ Progress in the preparatory work on new norms concerning intellectual property in databases, and the rights of broadcasting organizations and of distributors of cable-originated programs, so that treaties may be adopted not later than in the 2000-2001 biennium, or at least appropriate guidance offered to WIPO Member States for harmonization of their laws on these issues.
- ◆ Availability of up-to-date information and guidance to WIPO Member States and interested parties on the implications on copyright and related rights of developments in digital technology and digital networks.
- ◆ Better coordinated, more appropriately prepared and more transparent WIPO activities in the field of copyright and related rights, *inter alia* as a result of the work of the Standing Committee on Copyright and Related Rights.

Sub-program 10.1

Implementation of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty

Objectives:

- ◆ To promote adherence to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), thus securing their entry into force as soon as possible.
- ◆ To review those aspects of the two treaties which require interpretation, or where otherwise their implementation may raise difficulties.
- ◆ To offer guidance, where appropriate, to governments, legislators and the judiciary for the implementation and application of the two treaties.

Background The WCT and the WPPT, adopted in December 1996, were open for signature until the end of 1997 and have been signed by a number of Member States of WIPO and the European Community. Preparatory work is in train for the ratification of, or accession to, the treaties, and for the adoption of implementing legislation where necessary. Certain issues concerning the interpretation and implementation of the treaties emerged in the course of this work and further issues may yet arise; such issues should be settled as soon as possible. There is a need for active promotion of adherence to, and the implementation of, these treaties, the more so because each requires not less than 30 instruments of ratification or accession to enter into force.

Main activities

- ◆ One or two joint meetings of signatories of the WCT and the WPPT; or, if at least one of the treaties enters into force in the 1998-99 biennium, convening the Assembly or Assemblies established by the treaty or the treaties concerned instead of the second meeting of signatories (including, as appropriate, provision for WIPO Member States other than the signatories of the treaties, or other than Member States of these Assembly or Assemblies, to be invited as observers).
- ◆ An international workshop on implementing these treaties' provisions concerning technological measures for protection and exceptions to, and limitations on, rights; commissioning of two or three studies by external experts on technological measures of protection and on the question of the applicability of exceptions to, and limitations on, rights in works and objects of related rights protected by such measures; publication of the studies and workshop materials for use in advising governments, legislators and the judiciary.
- ◆ Three regional meetings in developing countries, and one regional meeting for certain European and Asian countries (as identified in Main Program 07) for the promotion of

adherence to, and implementation of, the treaties; and five to ten similar national-level meetings, depending on the level of demand.

- ◆ Staff missions and support for participating government officials for consultations with governments, legislators and the judiciary, and to take part in meetings, on issues concerning the adherence to, and implementation of, the treaties.

Expected results

- ◆ Progress in the adherence to the WCT and WPPT treaties, so that they may enter into force not later than in the 2000-2001 biennium.
- ◆ Availability of guidance to governments, legislators and the judiciary of WIPO Member States for the implementation of the treaties.
- ◆ Appropriate implementation of the treaties at regional and national level.

Implementation of the WCT and WPPT (in thousands of Swiss francs)											
Sub-program 10.1	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Total	937	112	533	-	139	110	13	5	5	-	20

Sub-program 10.2

Protection of Audiovisual Performances

Objectives:

- ◆ To review the present situation, at national, regional and international levels, of the protection of performers in respect of audiovisual performances.
- ◆ To determine where harmonization and updating of the relevant norms are necessary.
- ◆ To obtain such harmonization and updating through new, binding international norms, where appropriate.

Background

International norms on the protection of performers were harmonized and updated in the WIPO Performers and Phonograms Treaty (WPPT). However, in adopting that treaty the Diplomatic Conference chose to cover only the aural aspects of performances, and not their audiovisual aspects. The Conference resolved that preparatory work should continue with the objective of extending the coverage of the WPPT through the adoption of a protocol on the audiovisual aspects of performances (referred to as “audiovisual performances”).

Main activities

- ◆ Two or three meetings of representatives of WIPO Member States and of the European Community, taking the form, depending on the progress and the

requirements of the preparatory work, of a committee of experts (involving also interested inter-governmental and non-governmental organizations), of sessions of the Standing Committee on Copyright and Related Rights, of informal consultations and negotiations and/or of a preparatory meeting to deal with the procedural aspects of the diplomatic conference.

- ◆ One or two series of regional consultation meetings for developing countries and for certain European and Asian countries (as identified in Main Program 07), combined with other regional consultation meetings under this Main Program.
- ◆ A diplomatic conference for the adoption of a Protocol to the WPPT on Audiovisual Performances.
- ◆ Staff missions and support for participating government officials, for consultations with governments and to attend meetings on matters under this sub-program.

Expected results

- ◆ The adoption of a Protocol to the WPPT on Audiovisual Performances in the 1998-99 biennium.

Protection of Audiovisual Performances (in thousands of Swiss francs)											
Sub-program 10.2	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Total	1,279	72	661	-	484	21	16	-	5	-	20

Sub-program 10.3

Protection of Databases

Objectives:

- ◆ To review the present situation, at national, regional and international levels, of the protection of databases by copyright and by other legal institutions, such as *sui generis* protection or protection against unfair competition.
- ◆ To determine where harmonization and updating of the relevant norms are necessary.
- ◆ To obtain such harmonization and updating through binding norms, where appropriate, or through recommendations, guiding principles or other forms of guidance.

Background

The Berne Convention, the TRIPS Agreement and the WIPO Copyright Treaty provide for the protection of original databases by copyright. The agenda of the December 1996 Diplomatic Conference included a draft treaty on a *sui generis* system of protection for databases. It envisaged the protection of the rights of makers of databases in respect of the utilization or extraction of the contents of both original and non-original databases, under certain conditions. The Conference did not discuss that draft treaty in substance, but recommended that the schedule of further preparatory work of a WIPO Treaty on

Intellectual Property in Respect of Databases be discussed and established. In September 1997, an Information Meeting was held on this issue, where it was found that discussions of any details of a possible treaty should be preceded by consideration of some more fundamental questions, such as the need for, the desirable nature and extent of any protection going beyond the existing protection of databases by copyright or by other legal means, such as by protection against unfair competition or by contracts, as well as the foreseeable economic, cultural and social impact of such protection.

Main activities

- ◆ Two or three meetings of representatives of WIPO Member States and of the European Community, taking the form, depending on the progress and requirements of the preparatory work, of information meetings, sessions of a committee of experts (involving also interested inter-governmental and non-governmental organizations), sessions of the Standing Committee on Copyright and Related Rights, or informal consultations and negotiations; commissioning of two or three studies by external experts if required to be submitted to the meetings.
- ◆ One or two series of regional consultation meetings for developing countries and for certain European and Asian countries (as identified in Main Program 07), combined with other regional consultation meetings under this Main Program.
- ◆ Staff missions and support for participating government officials, for consultations with governments and to attend meetings on matters under this sub-program..

Expected results

- ◆ Progress towards the adoption, probably in the 2000-2001 biennium, of a Treaty on Intellectual Property in Respect of Databases or, at least, the adoption of recommendations, guiding principles or similar forms of guidance to harmonize regional and national legislation on this issue.

Protection of Databases (in thousands of Swiss francs)											
Sub-program 10.3	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Total	285	-	169	-	47	39	5	-	5	-	20

Sub-program 10.4

Protection of the Rights of Broadcasting Organizations

Objectives:

- ◆ To review the present situation, at national, regional and international levels, of the protection of intellectual property rights of broadcasting organizations and of distributors of cable-originated programs.
- ◆ To determine where harmonization and updating of the relevant norms are necessary.
- ◆ To obtain such harmonization and updating either through recommendations, guiding principles or other similar forms of guidance, or through new binding international norms, where appropriate.

Background The WPPT harmonizes and updates international norms on the protection of performers (except for their “audiovisual performances”) and producers of phonograms, but it does not cover the third traditional category of related rights beneficiaries, namely broadcasting organizations. During the preparatory work that led to the adoption of the WPPT and the WCT, and at the September-October 1997 sessions of the Governing Bodies of WIPO, several delegations proposed that WIPO include in its program the issue of harmonization of the rights of broadcasting organizations. The WIPO World Symposium on Broadcasting, New Communication Technologies and Intellectual Property, held in Manila in April 1997, identified several areas where international harmonization and updating of existing norms is necessary and indicated that this activity may have to extend to the rights of distributors of cable-originated programs.

Main activities

- ◆ Two or three meetings of representatives of WIPO Member States and of the European Community, to take the form, depending on the progress and requirements of the preparatory work, of information meetings, of sessions of a committee of experts (involving also interested inter-governmental and non-governmental organizations), sessions of the Standing Committee on Copyright and Related Rights, and/or informal consultations and negotiations.
- ◆ One or two series of regional consultation meetings for developing countries and for certain European and Asian countries (as identified in Main Program 07), combined with other regional consultation meetings under this Main Program.
- ◆ Staff missions and support for participating government officials, for consultations with governments and to attend meetings on matters under this sub-program.

Expected results

- ◆ Progress towards the adoption, probably in the 2000-2001 biennium, of recommendations, guiding principles or other similar forms of guidance, to harmonize regional and national legislation on these issues, or a Treaty on the Protection of the Rights of Broadcasting Organizations and of Distributors of Cable-originated Programs.

Protection of the Rights of Broadcasting Organizations (in thousands of Swiss francs)											
Sub-program 10.4	Official Travel and Fellowships			Contractual Services				Operating Exp.		Equipment and Supplies	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Total	290	-	169	-	47	39	5	-	5	-	25

Sub-program 10.5

Copyright, Related Rights and Digital Technology

Objectives:

- ◆ To monitor the development, implementation and application of international norms in the field of copyright and related rights, to review and harmonize WIPO activities in this field.
- ◆ To identify and clarify new issues in this field to be dealt with by WIPO, for discussion and for eventual decisions by the competent Governing Bodies.
- ◆ To monitor developments in digital technology and global digital networks such as the Internet, from the viewpoint of copyright and related rights.
- ◆ To offer a regular forum for different groups of owners, managers and users of copyright and related rights to exchange information and identify desirable forms of coordination or cooperation, such as in the creation and operation of electronic rights management systems.
- ◆ To monitor the methods of individual exercise and centralized management of copyright and related rights in the digital environment, and promote the optimal application of methods which are efficient and appropriate from the viewpoint both of owners and managers of rights, and of users and the general public.

Background Economic, technological and social developments affecting the creation, exploitation and protection of works and objects of related rights have accelerated, and are taking place in the context of globalization of economies and the information infrastructure. The system of WIPO-administered treaties in the field of copyright and related rights is already quite complex--with the Berne, Rome, Phonograms and Satellites Conventions and the WCT and WPPT. If new treaties are adopted, as foreseen under the above sub-programs, this system may become even more complex. This challenging scenario calls for the establishment of a standing body to review, monitor and harmonize the various activities in the field and to prepare and facilitate certain decisions to be taken by the competent Governing Bodies of WIPO.

In responding to the most important and urgent issues for copyright and related rights raised by the development of digital technology and by digital networks such as the Internet, the WCT and WPPT determined the rights to be granted and the possible exceptions to, and limitations on, rights; they also introduced obligations concerning

technological measures of protection and rights management information systems, but left it to the interested parties to work out and operate such measures and systems. While promoting adherence and implementation in relation to these treaties, WIPO needs to continue studying certain issues they do not cover, and regularly monitor developments in digital technology and global networks. This work would be coordinated with relevant aspects of sub-programs 9.3 and 11.4.

WIPO must also act as a forum for interested groups to work together for the creation and operation of the most appropriate and most efficient methods for the protection, exercise and management of rights in the digital environment, as stressed by the participants in the WIPO International Forum on the Exercise and Management of Copyright and Neighboring Rights in the Face of the Challenges of Digital Technology held in Seville, Spain, in May 1997.

Main activities

- ◆ One or two sessions of the Standing Committee on Copyright and Related Rights over the biennium to consider in particular the impact of digital technology and global information networks on copyright and related rights, each session preceded by a hearing for, or other consultations with, interested non-governmental organizations on the issues to be discussed in that session.
- ◆ Two or three meetings of an Advisory Committee on Management of Copyright and Related Rights in Global Information Networks, with the representatives of owners of copyright and related rights and Internet service and access providers to discuss the exercise and collective management of rights in a digital environment, particularly in global networks, including the practical application of technological measures of protection, rights management information systems and new methods for management of rights; commissioning of two or three studies on these issues by external experts who will also take part in consultations.
- ◆ A world-wide symposium on the creation, licensing and protection of multimedia productions.
- ◆ A meeting of a group of consultants on the nature and extent of liability of service and access providers in respect of transmissions on digital networks such as the Internet; commissioning of two or three studies by external experts, to be discussed by these consultants; and publication of the studies and meeting materials for use in advising governments, legislators and the judiciary.
- ◆ A meeting of a group of consultants on the private international law aspects of the protection of works and objects of related rights transmitted through global digital networks; commissioning of two or three studies by external experts on these aspects, to be submitted to the group of consultants.
- ◆ Engagement of an external consultant or consultants, altogether for 18 months, to assist the Secretariat in dealing with the above-mentioned activities.
- ◆ Staff missions and support for participating government officials, for consultations with governments and to attend meetings on matters under this sub-program.

Expected results

- ◆ Availability of up-to-date information, both for the WIPO Member States and for interested groups, concerning the issues raised by digital technology, and particularly

by global networks, such as the Internet, in respect of the protection, exercise and collective management of copyright and related rights.

- ◆ Progress in the clarification of the issues relating to the licensing and protection of multimedia productions so that, no later than in the 2000-2001 biennium, recommendations, guiding principles or other similar forms of guidance may be offered to governments, legislators and the judiciary of WIPO Member States.
- ◆ Progress in outlining options for solving the private international law problems emerging in respect of transmission of works and objects of related rights through global digital networks, such as the Internet; publication of a study or collection of studies on those problems and options, not later than in the 2000-2001 biennium.
- ◆ Availability of information for the Standing Committee on Copyright and Related Rights and for the competent Governing Bodies of WIPO on issues which deserve attention and may require action in this field.
- ◆ Contribution to the establishment and operation of harmonized systems of exercise and management of copyright and related rights in a digital environment, particularly on the Internet.

Copyright, Related Rights and Digital Technology (in thousands of Swiss francs)											
Sub-program 10.5	<u>Official Travel and Fellowships</u>			<u>Contractual Services</u>				<u>Operating Exp.</u>		<u>Equipment and Supplies</u>	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Total	906	-	386	-	213	262	15	-	5	-	25

Program Budget Summary

Development of Copyright and Related Rights (in thousands of Swiss francs)											
	<u>Official Travel and Fellowships</u>			<u>Contractual Services</u>				<u>Operating Exp.</u>		<u>Equipment and Supplies</u>	
	Staff Missions	Part. Govt Officials	Fellowships	Conferences	Consultants	Publishing	Other	Premises & Maint.	Comm & Other	Supplies & Materials	Furniture & Equipment
Sub-program 10.1 937	112	533	-	139	110	13	5	5	-	-	20
Sub-program 10.2 1279	72	661	-	484	21	16	-	5	-	-	20
Sub-program 10.3 285	-	169	-	47	39	5	-	5	-	-	20
Sub-program 10.4 290	-	169	-	47	39	5	-	5	-	-	25
Sub-program 10.5 906	-	386	-	213	262	15	-	5	-	-	25
Total	3,697	184	1,918	-	930	471	54	25	-	-	110

Staff needs and costs

The upgrading of one Professional post to the Director level, one Professional and one and a half additional General Service staff are required to carry out the new activities concerning the Development of Copyright and Related Rights, especially with regard to the Copyright Treaties and other activities under sub-programs 10.1 to 10.3.

Posts	1996-97	1998-99	Variation
Directors (incl. 1 ADG)	2	3	1
Professionals	2	2	0
General Service	4.5	6	1.5
Total	8.5	11	2.5

Staff costs (in thousands of Swiss francs)	Budget 1996-97	Budget 1998-99	Variation
Salaries of regular staff	1,916	2,936	
Salaries of short-term staff	68	360	
Social charges + other personnel costs	629	963	
Total staff costs	2,613	4,259	63.0%

Comparative Budget Summary

	(In thousands of Swiss francs)					
	Budget 1996-97	Budget 1998-99	Variation			
			Program		Cost	
MAIN PROGRAM 10: Development of Copyright and Related Rights			Amount	%	Amount	%
Program Activities	2,346	3,697	1,269	54.1%	82	3.5%
Staff Costs	2,613	4,259	1,643	62.9%	3	0.1%
TOTAL	4,959	7,956	2,912	58.7%	85	1.7%