

# Copyright

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International Bureaux for the Protection  
of Intellectual Property (BIRPI)

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# INTERNATIONAL UNION

## Information Meeting of International Non-Governmental Organizations

(Paris, March 16, 1970)

### Report

1. The Director of BIRPI, in implementation of paragraph 7(b)(v) of Resolution No. 1 of the Permanent Committee of the Berne Union, adopted in Paris on December 19, 1969, invited to an information meeting the international non-governmental organizations whose activities concern copyright and which are shown in the list attached to this Report (Annex A).

2. This meeting took place in Paris, at Unesco Headquarters, on March 16, 1970.

3. Apart from the information to be given on the Ad Hoc Preparatory Committee entrusted with the preparation of a draft text of the proposals for revision of the Berne Convention, the purpose of the meeting was to appoint seven persons to be invited to attend the meetings of the aforesaid Committee as non-participating observers. The agenda of the meeting appears in document DA/32/1.

4. The meeting was presided over by the representative of the Director of BIRPI, in the presence of the representative of the Director-General of Unesco, who attended the meeting as an observer.

5. Of the twenty-five international non-governmental organizations invited, twenty-one were present or represented. The list of participants is appended to this Report (Annex B).

6. The representative of the Director of BIRPI and the Secretariat gave the meeting full information on the establishment of the Ad Hoc Preparatory Committee, the tasks it would have to accomplish and the role of observers appointed to attend the session of this Committee. They also informed the meeting on the documents which will be presented to the Ad Hoc Preparatory Committee.

7. The meeting proceeded to consider the appointment of seven persons to be invited to attend the meetings of the Ad Hoc Preparatory Committee:

the organizations representing authors unanimously appointed Mr. Léon Malaplate and Mr. Roger Fernay;

the organizations representing publishers unanimously appointed Mr. Dan Lacy or, if he is unable to attend, Mr. Jacques Bourquin;

the organizations representing legal circles working for copyright protection, by a majority vote, appointed Professor Henri Desbois.

8. Before proceeding with the appointment of three persons for the organizations representing users of copyrighted works, the following observations were made:

(i) Mr. Leuzinger, the representative of FIM and ICM, after asking for an elucidation concerning the election procedure, referred to certain difficulties, which, in his opinion,

were bound to be involved in the election of only three representatives to represent all the various types of organizations which can be said to constitute the group of "users of copyrighted works". He also doubted whether the term "users" could be rightly used to identify the interests represented by certain non-governmental organizations;

(ii) Mr. G. Schwaller, the representative of FIAD, made a general reservation concerning the inadequacy of representation by only three persons of the different interests involved;

(iii) Mr. A. Brisson, the representative of FIAPF, supported the statement of the representative of FIAD. On the other hand, he stated that, according to some legislations, producers qualify as authors and that FIAPF for this reason could fall into several groups. However, since he had to make an option, his organization chose the group of users.

(iv) Mr. J. A. L. Sterling, the representative of IFPI, after stating that the term "users" in the phrase "users of copyrighted works" could have a pejorative connotation, inquired whether it could not be changed to describe and reflect the function of many of the organizations invited to the meeting, for example, the phonographic industry and the broadcasting organizations (i. e., the international organizations involved in the diffusion of works of the mind).

9. After an adjournment, Mr. Straschnov, the representative of EBU, referred to the many difficulties which organizations representing users of copyrighted works encountered in designating three persons to represent so many diverse interests. He stated that, despite those difficulties, the organizations concerned had designated: Mr. Ola Ellwyn, Mr. J. A. L. Sterling and Mr. Georges Straschnov.

The following organizations had, however, abstained when the designations were made: AID, FIM, ICM, IFA, IFVA.

10. Furthermore, it was understood that, should one or more of the three persons mentioned above be unable to attend, all the organizations concerned would appoint replacements. The organizations which had abstained when the three persons were designated stated that they would also abstain in the event of a deputy's being appointed.

11. The organizations representing users of copyrighted works finally expressed the unanimous wish that the latter category might have its representation increased to six persons. In view of the diversity of the interests represented by those organizations, it was extremely difficult, if not impossible, to appoint only three persons to defend them.

12. The representative of AID stated that his organization wished to be represented independently, since distribu-

tion by wire was a technical device different from those used by other organizations for the diffusion of intellectual works.

13. The representative of the Director of BIRPI stated, before the close of the debates, that the documents established for the Ad Hoc Preparatory Committee would be transmitted to the seven representatives of the international non-governmental organizations, which had been appointed. These documents could be made available to other organizations upon written request but only in a limited number of copies.

14. At the close of its deliberations, the meeting unanimously agreed that the Report, reflecting the statements made and recording the result of the elections, should be established by the Secretariat and subsequently distributed.

## ANNEX A

### List of the Organizations invited

Asociación Interamericana de Radiodifusión  
 European Broadcasting Union (EBU)  
 International Alliance for Diffusion by Wire (AID)  
 International Association for the Protection of Industrial Property (IAPIP)  
 International Bureau for Mechanical Reproduction (BIEM)  
 International Confederation of Societies of Authors and Composers (CISAC)  
 International Federation of Actors (IFA)  
 International Federation of Film Distributors' Associations (FIAD)  
 International Federation of Film Producers' Associations (FIAPF)  
 International Federation of Journalists (IFJ)  
 International Federation of Musicians (FIM)  
 International Federation of Newspaper Publishers (FIEJ)  
 International Federation of the Phonographic Industry (IFPI)  
 International Federation of Translators (FIT)  
 International Federation of Variety Artistes (IFVA)  
 International Hotel Association (IHA)  
 International Law Association (ILA)  
 International Literary and Artistic Association (ALAI)  
 International Music Council (IMC)  
 International Publishers Association (IPA)  
 International Radio and Television Organization (OIRT)  
 International Union of Cinematograph Exhibitors (UIEC)  
 International Writers Guild (IWG)  
 Internationale Gesellschaft für Urheberrecht (INTERGU)  
 Union of National Radio and Television Organizations of Africa (URTNA)

## ANNEX B

### List of Participants

#### I. International Non-Governmental Organizations

*Broadcasting Union (EBU)*  
 Mr. G. Straschnov, Director, Department of Legal Affairs  
*International Alliance for Diffusion by Wire (AID)*  
 Sir Fitzroy Maclean, President  
 Mr. P. H. Denuit, Secretary-General  
*International Association for the Protection of Industrial Property (IAPIP)*  
 Mr. G. Gaultier, Assistant to the Rapporteur General

*International Bureau for Mechanical Reproduction (BIEM)*

Mr. Jean Elissabide, Secretary-General

*International Confederation of Societies of Authors and Composers (CISAC)*

Mr. Léon Malaplate, Secretary-General

Mr. Jean-Alexis Ziegler, Deputy Secretary-General

*International Federation of Actors (IFA)*

M<sup>me</sup> F. Delahalle, Artiste dramatique

*International Federation of Film Distributors' Associations (FIAD)*

Mr. G. Schwaller, Secretary-General

*International Federation of Film Producers' Associations (FIAPF)*

Mr. A. Brissou, Secretary-General

*International Federation of Musicians (FIM)*

Mr. R. Leuzinger, Secretary-General

*International Federation of Newspaper Publishers (FIEJ)*

Mr. Michel L. de Saint-Pierre, Director

*International Federation of the Phonographic Industry (IFPI)*

Mr. J. A. L. Sterling, Deputy Director-General

Mr. Maurice Lenohle, General Delegate, National Association of the Phonographic Industry and Trade

*International Federation of Variety Artistes (IFVA)*

M<sup>me</sup> F. Delahalle, Artiste dramatique

*International Hotel Association (IHA)*

Mr. J. David, Secretary-General

*International Law Association (ILA)*

Mr. André Françon, Professor at the Faculty of Law and Economic Science, Nanterre

*International Literary and Artistic Association (ALAI)*

Mr. Henri Desbois, Professor at the Faculty of Law and Economic Science, Paris, Permanent Secretary

*International Music Council (IMC)*

Mr. R. Leuzinger, Secretary-General of FIM

*International Publishers Association (IPA)*

Mr. Roger Malicot, Head, Finance Department

*International Union of Cinematograph Exhibitors (UIEC)*

Mr. J. Handl, Legal Adviser

*International Writers Guild (IWG)*

Mr. Roger Fernay, President of the International Copyright Committee

*Internationale Gesellschaft für Urheberrecht (INTERGU)*

Mr. R. Talon, Delegate

*Union of National Radio and Television Organizations of Africa (URTNA)*

Mr. M. Bassiouni, Secretary-General

#### II. Observers

*United Nations Educational, Scientific and Cultural Organization (Unesco)*

Miss M.-C. Dock, Head, Copyright Division

#### III. Secretariat

Mr. Claude Masouyé, Senior Counsellor, Head, External and Public Relations Division

Mr. Vojtěch Strnad, Counsellor, Head, Copyright Division

**Permanent Committee of the International Union  
for the Protection of Literary and Artistic Works (Berne Union)**

Fourteenth Session (Paris, December 15 to 19, 1969) \*

Second Part of the Report - Paragraph 68

*Corrigendum*

The last sentence should read as follows:

“The delegation of Denmark also gave support to the views expressed by the delegation of Canada with regard to the composition of the Preparatory Committee.”

\* See *Copyright*, 1970, pp. 21 *et seq.*

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**NATIONAL LEGISLATION**

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MALTA

**The Copyright Act, 1967**

(No. VI of 1967) <sup>1</sup>

An Act to make new provision in respect of copyright and related matters, in substitution for the provisions of the Copyright Act, 1911

*Short title and commencement*

1. — This Act may be cited as the Copyright Act, 1967, and shall come into force on such date as the Minister may, by notice in the Government Gazette, appoint <sup>2</sup>.

*Interpretation*

2. — (1) In this Act, unless the context otherwise requires —

“broadcasting authority” means the Broadcasting Authority established by section 121 of the Constitution of Malta and any other broadcaster whether licensed under the Broadcasting Ordinance, 1961, or any other law of Malta, and includes a broadcasting contractor operating in Malta;

“author”, in the case of a cinematograph film or sound recording, means the person by whom the arrangements for the making of the film or recording were undertaken, and, in the case of a broadcast transmitted from within any country, means the person by whom the arrangements for the making of the transmission from within that country were undertaken;

“building” includes any structure;

“Board” means the Copyright Board established under section 17 of this Act;

“The Copyright Act, 1911” means the Act of the Parliament of the United Kingdom, referred to in Proclamation No. VI of the 28<sup>th</sup> June, 1912;

“copyright” means copyright under this Act;

“body of persons” means any company or society of persons whether corporate or unincorporate, whether vested with legal personality or not;

“communication to the public” includes, in addition to any public live performance or delivery, any mode of public visual or acoustic presentation, but does not include a broadcast or rebroadcast, and “communicate to the public” shall be construed accordingly;

“copy” means a reproduction in written or graphic form, in the form of a recording or cinematograph film, or in any other material form, so however that an object shall not be taken to be a copy of an architectural work unless the object is a building or model;

“lawful” means done in compliance with the provisions of this Act, and “lawfully” shall be construed accordingly;

<sup>1</sup> Published in the *Supplement to the Government Gazette of Malta*, No. 11,992 of March 3, 1967.

<sup>2</sup> This Act came into force on January 1, 1970, by notification No. 12,355, published in the *Supplement to the Gazette* of December 2, 1969.

“licence” means a lawfully granted licence permitting the doing of an act controlled by copyright;

“Malta” shall have the same meaning as assigned to it in the Constitution of Malta;

“Minister” means the Minister responsible for industry;

“cinematograph film” means the first fixation of a sequence of visual images capable of being shown as a moving picture and of being the subject of reproduction, and includes the recording of a soundtrack associated with the cinematograph film;

“person” includes a body of persons;

“prescribed” means prescribed by regulations made under section 16 of this Act;

“owner of copyright” means the first owner, an assignee or an exclusive licensee, as the case may be, of a copyright;

“sound recording” means the first fixation of a sequence of sounds capable of being perceived aurally and of being reproduced, but does not include a soundtrack associated with a cinematograph film;

“reproduction” means the making of one or more copies of a literary, musical or artistic work, cinematograph film or sound recording;

“broadcast” means broadcast by wireless telegraphy or wire or both but does not include a rebroadcast, and “broadcasting” shall be construed accordingly;

“rebroadcast” means simultaneous or subsequent broadcast by a broadcasting authority of the broadcast of any broadcasting station not under its control, whether situated in Malta or abroad, and includes diffusion of such broadcast over wires, and “rebroadcasting” shall be construed accordingly;

Provided that “later rebroadcast” shall mean only any such subsequent broadcast and “later rebroadcasting” shall be construed accordingly;

“work” includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character;

“artistic work” means, irrespective of artistic quality, any of the following, or works similar thereto—

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
- (b) maps, plans and diagrams;
- (c) works of sculpture;
- (d) photographs not comprised in a cinematograph film;
- (e) works of architecture in the form of buildings or models; and
- (f) works of artistic craftsmanship, including pictorial woven tissues and articles of applied handicraft and industrial art;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors;

“literary work” means, irrespective of literary quality, any of the following, or works similar thereto—

- (a) novels, stories and poetical works,
  - (b) plays, stage directions, choreographic works or entertainments in dumb show, film scenarios and broadcasting scripts,
  - (c) textbooks, treatises, histories, biographies, essays and articles,
  - (d) encyclopaedias and dictionaries,
  - (e) letters, reports and memoranda,
  - (f) lectures, addresses and sermons,
- but does not include any written law, law report or judicial decisions;

“musical work” means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment.

(2) For the purposes of this Act the following provisions shall apply with respect to publication—

- (a) a work shall be deemed to have been published if copies thereof have been made available in a manner sufficient to render the work accessible to the public;
- (b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work;
- (c) a publication in any country shall be treated as being a first publication notwithstanding that there has been an earlier first publication elsewhere, if the two publications took place within a period of not more than thirty days.

#### *Works eligible for copyright*

3. — (1) Subject to the provisions of this section the following works shall be eligible for copyright—

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) cinematograph films;
- (e) sound recordings;
- (f) broadcasts.

(2) A literary, musical or artistic work shall not be eligible for copyright unless—

- (a) sufficient effort has been expended on making the work to give it an original character; and
- (b) the work has been written down, recorded or otherwise reduced to material form.

(3) A design or model of manufacture eligible for copyright under this Act shall not, by registration under the Industrial Property (Protection) Ordinance, acquire a term of copyright beyond that specified under subsection (2) of section 4 of this Act.

(4) A work shall not be ineligible for copyright by reason only that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

#### *Copyright by virtue of nationality or domicile*

4. — (1) Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in

the case of a work of joint authorship, any of the joint authors is, at the time when the work is made, a qualified person, that is to say—

- (a) an individual who is a citizen of, or is domiciled in, Malta; or
- (b) a body of persons constituted and vested with legal personality under the laws of Malta and established in Malta or a commercial partnership registered in Malta in accordance with the provisions of the Commercial Partnerships Ordinance, 1962.

(2) The terms of copyright conferred by this section shall be calculated according to the following table—

<i>Type of Work</i>	<i>Date of Expiration of Copyright</i>
(i) Literary, musical or artistic works other than photographs	Twenty-five years after the end of the year in which the author dies.
(ii) Cinematograph films and photographs	Twenty-five years after the end of the year in which the work was first made accessible to the public by the owner of the copyright therein.
(iii) Sound recordings	Twenty-five years after the end of the year in which the recording was made.
(iv) Broadcasts	Twenty-five years after the end of the year in which broadcast took place.

(3) In the case of an anonymous or pseudonymous literary, musical or artistic work whose term of copyright is established under paragraph (i) of the last preceding subsection the copyright therein shall subsist until the end of the expiration of twenty-five years from the end of the year in which it was first published:

Provided that in the event of the identity of the author becoming known the terms of copyright shall be calculated in accordance with the provisions of paragraph (i) of the last preceding subsection.

(4) In the case of a work of joint authorship, reference in the preceding table to the death of the author shall be deemed to refer to the joint author who dies last, whether or not he is a qualified person.

#### *Copyright by reference to country of origin*

5. — (1) Copyright shall be conferred by this section on every work, other than a broadcast, which is eligible for copyright and which—

- (a) being a literary, musical or artistic work or a cinematograph film, is first published in Malta, or
  - (b) being a sound recording, is made in Malta,
- and which has not been the subject of copyright conferred by section 4 of this Act.

(2) Copyright conferred on a work by this section shall have the same duration as is provided for in section 4 of this Act in relation to the same type of work.

#### *Copyright in works of Government and international bodies*

6. — (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made by or under the direction or control of the Government and also such international bodies or other governmental organizations as may be prescribed.

(2) Copyright conferred by this section on a literary, musical or artistic work, other than a photograph, shall subsist until the end of the expiration of twenty-five years from the end of the year in which the work was first published.

(3) Copyright conferred by this section on a film, photograph, sound recording or broadcast shall have the same duration as is provided for by section 4 of this Act in relation to the same type of work.

(4) Sections 4 and 5 of this Act shall not be deemed to confer copyright on works to which this section applies.

#### *Nature of copyright in literary, musical or artistic works and cinematograph films*

7. — (1) Copyright in a literary, musical or artistic work or in a cinematograph film shall be the exclusive right to control the doing in Malta of any of the following acts, namely the reproduction in any material form, the communication to the public, the broadcasting or later rebroadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original:

Provided that copyright in any such work shall not include the right to control—

- (a) the doing of any of the aforesaid acts by way of fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, provided that if such use is public, it is accompanied by an acknowledgment of the title of the work and its authorship, except where the work is incidentally included in a broadcast or rebroadcast;
- (b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;
- (c) the inclusion in a film, broadcast or rebroadcast of any artistic work situated in a place where it can be viewed by the public;
- (d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;
- (e) the incidental inclusion of an artistic work in a film, broadcast or rebroadcast;
- (f) the inclusion in a collection of literary or musical works of excerpts from any such work, provided that not more than two excerpts of the works of the same author shall be used in the same collection and that the collection is designed for use in any school or university and includes an acknowledgment of the title and authorship of the work;
- (g) the inclusion of a work in a school broadcast or rebroadcast;
- (h) any use made of a work in any school or university for the educational purposes of that school or university, subject to the condition that, if a reproduction is made

for any such purpose, it shall be destroyed before the end of the period of twelve calendar months after it was made;

- (i) the making of a sound recording of a literary or musical work, as well as the reproduction of such sound recording by the maker or under licence from him, provided that the copies thereof are intended for retail sale in Malta and that such work has already been previously recorded under licence from the owner of the relevant copyright, whether in Malta or abroad, subject to such conditions and to the payment of such compensation as the Minister may prescribe;
- (j) the reading or recitation in public by a person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgment;
- (k) any use made of a work, other than its reproduction in any material form, by or under the direction or control of the Government, or by such public libraries, non-commercial documentation centres and scientific institutions as may be prescribed, where such use is in the public interest, no revenue is derived therefrom and no admission fee is charged for the communication, if any, to the public of the work thus used;
- (l) the reproduction of a work by or under the direction or control of a broadcasting authority where such reproduction or any copies thereof are intended exclusively for a lawful broadcast or rebroadcast and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting authority and the owner of the relevant copyright in the work:
 

Provided that any reproduction of a work made under this paragraph may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting authority, but shall not be used for broadcasting, rebroadcasting or for any other purpose without the consent of the owner of the relevant copyright in the work;
- (m) the broadcasting or rebroadcasting of a work already lawfully made accessible to the public with which no licensing body referred to under section 15 of this Act is concerned, subject to the condition that, saving the provisions of this section, the owner of the broadcasting right in the work receives a fair compensation which shall be determined, in the absence of agreement, by the Board;
- (n) the communication to the public of a work, in a place where no admission fee is charged in respect of such communication, by any club whose aim is not profit making;
- (o) any use made of a work for the purpose of a judicial proceeding or of any report of any such proceeding.

(2) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original:

Provided that the copyright in any such work shall not include the right to control the reconstruction, in the same style as the original, of a building to which that copyright relates.

#### *Broadcasting of works incorporated in a cinematograph film*

8. — (1) Where the owner of the copyright in any literary, musical or artistic work authorises a person to incorporate the work in a cinematograph film and a broadcasting authority broadcasts or later rebroadcasts the film, it shall, in the absence of any express agreement to the contrary between such owner and person, be deemed that the owner of the copyright authorised such broadcast or later rebroadcast.

(2) Notwithstanding the provisions of subsection (1) of this section where a broadcasting authority broadcasts or later rebroadcasts a cinematograph film in which a musical work is incorporated, the owner of the right to broadcast the musical work shall, subject to the provisions of this Act, be entitled to receive fair compensation from the broadcasting authority.

(3) In the absence of agreement on the compensation payable under the last preceding subsection the amount of such compensation shall be determined by the Board.

#### *Nature of copyright in sound recordings*

9. — Copyright in a sound recording shall be the exclusive right to control in Malta the direct or indirect reproduction of the whole or a substantial part of the recording either in its original form or in any form recognizably derived from the original:

Provided that the provisions of paragraphs (a), (h), (k), (l) and (o) of the proviso to subsection (1) of section 7 of this Act shall apply to the copyright in a sound recording in like manner as they apply to copyright in a literary, musical or artistic work or in a cinematograph film.

#### *Nature of copyright in broadcasts*

10. — Copyright in a broadcast shall be the exclusive right to control the doing in Malta of any of the following acts, namely, the recording and the rebroadcasting of the whole or a substantial part of the broadcast and the communication to the public, in places where an admission fee is charged, of the whole or a substantial part of a television broadcast, either in its original form or in any form recognizably derived from the original:

Provided that —

- (a) the provisions of paragraphs (a), (h), (k) and (o) of the proviso to subsection (1) of section 7 of this Act shall apply to the copyright in a broadcast in like manner as they apply to copyright in a literary, musical or artistic work or a cinematograph film;
- (b) the copyright in a television broadcast shall include the right to control the taking of still photographs from such broadcasts or any rebroadcasts thereof.

#### *First ownership of copyright*

11. — (1) Copyright conferred by sections 4 and 5 of this Act shall vest initially in the author:

Provided that where a work —

- (a) is commissioned by a person who is not the author's employer under a contract of service or apprenticeship, or
- (b) not having been so commissioned, is made in the course of the author's employment,

the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

(2) Copyright conferred by section 6 of this Act shall vest initially in the Government or such international bodies or other governmental organizations as may be prescribed, and not in the author.

(3) Subject to the provision of the last preceding subsection —

- (a) the name on a work purporting to be the name of its author shall be considered as such, unless the contrary is proved;
- (b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be deemed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Act.

#### *Assignments and licences*

12. — (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as movable property.

(2) An assignment or testamentary disposition of copyright may be limited so as to apply to some only of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.

(3) No assignment of copyright and no licence to do an act the doing of which is controlled by copyright shall have effect unless it is in writing:

Provided that a licence to communicate to the public any work which is subject to copyright may be oral or may be inferred from conduct.

(4) An assignment or licence of copyright granted by a joint author shall have effect as if granted by the other joint authors:

Provided that, where any other joint author is not satisfied with the terms on which such assignment or licence has been granted, he may, within three months from the day on which the said terms have been communicated in writing to him, apply to the Board for the determination by it of such terms as the Board may consider fair and reasonable.

(5) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work or an existing work in which copyright does not yet subsist, and the prospective copyright in any such work shall be transmissible as movable property:

Provided that such assignment or licence shall not be deemed to include a copyright which in terms of subsection (1)

of section 11 of this Act vests in the person who commissions the work or in the author's employer, unless the parties expressly include it.

(6) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, unless the testator has provided otherwise, be deemed to include any copyright or prospective copyright in the work which is vested in the deceased.

#### *Infringements*

13. — (1) Copyright shall be infringed by any person who does or causes any other person to do, without a licence from the owner thereof, an act the doing of which is controlled by copyright.

(2) Copyright shall also be infringed by any person who, without the licence of the owner of the copyright, imports into Malta, otherwise than for his private and domestic use, or distributes therein by way of trade, hire or otherwise, or by way of trade exhibits in public, any article in respect of which copyright is infringed under the last preceding subsection.

(3) Where any person infringes the copyright in a work he shall be liable, at the suit of the owner of such copyright, to be condemned by Her Majesty's Commercial Court to the payment of damages or to the payment of a fine of not less than £ 10 nor exceeding £ 500 as the said Court, having regard to the circumstances of the case, may deem proper, and to the restitution of all the profit derived from the infringement of the copyright:

Provided that where the défendant proves to the satisfaction of the Court that at the time of the infringement he was not aware and could not reasonably be expected to be aware that copyright subsisted in the work to which the action relates, the Court shall not condemn him to the restitution of the profit.

(4) The Court may, moreover, in a suit instituted under the last preceding subsection, on the application of the plaintiff, order that all the infringing articles still in possession of the defendant be delivered to the plaintiff.

(5) In an action for infringement of copyright in respect of the construction of a building, no prohibitory injunction or other order shall be made —

- (a) after the construction of the building has been begun, so as to prevent it from being completed; or
- (b) so as to require the building, in so far as it has been constructed, to be demolished.

#### *Prohibition to mutilate or modify a work*

14. — (1) It shall not be lawful for any person, including the assignee of the copyright or a licensee thereunder, without the author's consent, to mutilate or modify any work during its term of copyright in a way prejudicial to the honour or reputation of the author.

(2) Saving the provisions of the last preceding section, any person who contravenes the provision of subsection (1) of this section shall be liable at the suit of the author or his heirs to be condemned by Her Majesty's Commercial Court



to the payment of a fine, as and for damages, of not less than £10 and not exceeding £500.

(3) In any proceedings under the last preceding subsection the Court shall order the destruction of all the infringing articles still in possession of the defendant where it is satisfied that the prejudice caused to the author is so serious as to justify such measure.

(4) The provision of the last preceding subsection shall not apply where the infringing article is a building, but in that case the fine referred to in subsection (2) of this section shall be of not less than £50 and not exceeding £1,000.

#### *Functions of the Copyright Board*

15. — (1) In any case where it appears to the Board that a licensing body or a co-owner —

- (a) is unreasonably refusing to grant a licence in respect of copyright, or
- (b) is imposing unreasonable terms or conditions for the granting of such licence,

the Board may direct that, as respects the doing of any act relating to a work with which the licensing body or the co-owner, as the case may be, is concerned, a licence shall be deemed to have been granted by the licensing body or by the co-owner at the time the act is done, provided the appropriate fees fixed by such Board are paid or tendered before the expiration of such period or periods as the Board may determine.

(2) Saving the provisions of paragraph (m) of the proviso to subsection (1) of section 7 of this Act, the provisions of the last preceding subsection shall not apply where the refusal to grant a licence, or the terms and conditions for the granting of a licence, represent the unanimous decision of all the co-owners.

(3) In this section —

- “licensing body” means an organization which has as its main object, or one of its main objects, the negotiation and granting of licences in respect of copyright works, and includes an individual carrying on the same activity;
- “co-owners” means two or more persons having distinct copyrights in a composite production, namely any production consisting of two or more works.

#### *Regulations and extensions of application of Act*

16. — The Minister shall make regulations prescribing anything which may be prescribed under this Act and may make regulations extending the application of this Act in respect of any or all of the works referred to in subsection (1) of section 3 of this Act —

- (a) to individuals who are citizens of or are domiciled in,
- (b) to bodies of persons constituted and established in or commercial partnerships registered under the laws of,
- (c) to works, other than sound recordings and broadcasts, first published in,
- (d) to sound recordings made in,

a country which is a party to a treaty to which Malta is also a party and which provides for the protection of copyright in works which are protected under this Act.

#### *Copyright Board*

17. — (1) The Minister shall by notice in the Government Gazette appoint a Copyright Board, consisting of a Chairman and two other members for the purpose of performing the functions assigned to such Board by the provisions of this Act.

(2) The Chairman of the said Board shall be a Magistrate of Judicial Police or a person who has practised as an advocate in Malta for a period of, or periods amounting in the aggregate to, not less than seven years.

(3) The Minister shall also appoint two other persons to act as members of the Board, one to replace the Chairman and the other to replace any of the other two members, whenever the Chairman or any of the other members, as the case may be, is, for any reason, unable to carry out his functions.

(4) Every member of the Board shall hold office during the Minister's pleasure and the Minister may, without assigning any reason, revoke the appointment of any member and appoint a new member whenever he deems it to be necessary.

(5) The members of the Board, with the exception of the Chairman if he is a Magistrate of Judicial Police, shall, before entering upon their office, take before the Crown Advocate-General the oath to examine and decide any matter referred to them with equity and impartiality.

(6) The Chairman or any other member of the Board may abstain or may be challenged by any of the contending parties for any of the causes mentioned in section 735 of the Code of Organization and Civil Procedure. Any question regarding any cause of abstention or challenge and any question which is a question of law alone shall be decided by the Chairman of the Board.

(7) The Board shall have the power to summon any person to give evidence or to produce books or other documents before it, and the Chairman of the Board shall have, in regard to the summoning and examining of witnesses before the Board, the same powers as are by the Code of Organization and Civil Procedure conferred on Her Majesty's Civil Court, First Hall.

(8) Proceedings of the Board shall be held in public and the Board's decision shall be notified to the parties by registered post to their respective business or private addresses and, unless the contrary is proved, such decision shall be deemed to have been served on the party concerned not later than the third day succeeding the day when it was posted to such party.

(9) The Minister may make regulations governing proceedings before the Board and, without prejudice to the generality of the foregoing, may make regulations —

- (a) prescribing the manner in which any matter may be referred to the Board;
- (b) prescribing the procedure to be adopted by the Board in dealing with any matter referred to it under this Act and the records to be kept by the Board;

- (c) prescribing the manner in which the Board shall be convened and the place where the Board shall hold its sittings;
- (d) prescribing a scale of costs and fees; and
- (e) generally for the better carrying out of the functions assigned to the Board by this Act.

*Appeal from decisions of Copyright Board*

18. — (1) There shall lie a right of appeal from all decisions of the Board.

(2) Any appeal shall be brought before Her Majesty's Court of Appeal by application within fifteen days of service of the Board's decision.

(3) The Board established under section 30 of the Code of Organization and Civil Procedure may make rules concerning appeals to Her Majesty's Court of Appeal under this Act, and prescribing a scale of costs and fees in relation to such appeals.

*Costs and fees*

19. — Costs and fees in respect of proceedings before the Board and before Her Majesty's Court of Appeal shall be borne by the parties in such manner as the said Board or Court, as the case may be, shall decide.

*Amendment of the Industrial Property (Protection) Ordinance*

20. — The provisions of section 69 of the Industrial Property (Protection) Ordinance shall have effect subject to the amendment shown in the Schedule hereto.

*Application to works made before commencement of Act*

21. — This Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter.

*Repeals*

22. — The Copyright Act, 1911, so far as in force in the law of Malta, shall cease to have such force and the Copyright Act, 1911 (Modification) Ordinance (Chapter 69) shall be repealed on the coming into operation of this Act.

SCHEDULE

(Section 20)

In section 69 of the Industrial Property (Protection) Ordinance, immediately after subsection (3) there shall be added the following new subsection:

“(4) The provisions of this section shall have effect subject to the provision of subsection (3) of section 3. of the Copyright Act, 1967.”

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**CORRESPONDENCE**

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**Letter from Hungary**







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# INTERNATIONAL ACTIVITIES

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## International Secretariat of Entertainment Trade Unions (ISETU)

### Executive Board

(Brussels, January 19 and 20, 1970)<sup>1</sup>

### Resolution on the Rome Convention (1961)

The Executive Board of the International Secretariat of Entertainment Trade Unions at its 6<sup>th</sup> meeting (Brussels, January 19 and 20, 1970),

Noting that the principles of the Rome International Convention for the protection of performers, producers of phonograms and broadcasting organisations appear to have been called into question during the 2<sup>nd</sup> meeting of the Intergovernmental Committee administering the Convention<sup>2</sup>, and that doubts have been expressed about its efficacy to deal with the problems of broadcasting organisations concerning international television transmissions via point-to-point satellites; and

Noting further that these doubts are based on their view that not all phases of such a satellite transmission are protected by the Rome International Convention and that even if it did give appropriate protection, the value of this would be limited by the fact that only a small number of States have so far ratified or acceded to the Convention,

Points out that an attempt to deal with the question outside the main body of the Convention would seriously weaken the Convention;

Emphasizes its wish to strengthen the Rome International Convention, which among other things sets an admirable international standard for the treatment of performing artists and is of great importance for the handling of their international problems;

Calls for any necessary amendments to be made to the Convention, so that it covers all phases of a satellite transmission;

Urges governments to consider legislation for the protection of performers, producers of phonograms and broadcasting organisations as an integral part of legislation in the field of copyright and if they have not done so, to institute appropriate national and international measures as a matter of urgency; and

Calls on its affiliated organisations to intensify their work in support of the Rome International Convention.

<sup>1</sup> See *Copyright*, 1965, p. 119; and 1967, p. 326.

<sup>2</sup> See the text of the Report in *Copyright*, 1970, p. 44.

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## BOOK REVIEWS

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*Proprietà letteraria e artistica* [Literary and artistic property], by *Gino Galtieri*. One volume of 269 pages, 16 × 24.5 cm. Veschi Editore, Rome, 1969.

The writer of this book is well known in international copyright circles. Head of the Literary, Artistic and Scientific Property Office and member of the Permanent Consultative Committee for Copyright, Presidency of the Council of Ministers, as well as member of the Legal Council of the Italian Society of Authors and Publishers, Mr. Galtieri has served on a number of Italian Government delegations to diplomatic conferences and other meetings on copyright and neighboring rights.

Published as part of a series of studies and texts of a legislative, administrative and political nature, the book covers various national and international aspects of copyright and neighboring rights. The first part deals with the law of copyright, that is to say, the subject matter, owners, content and scope of copyright. Other questions examined are assignment of economic rights, copyright infringement and, especially, international protection of copyright. In connection with the latter subject, the writer — after setting out the general principles of international copyright protection and surveying the position as regards multilateral conventions — reviews bilateral and regional agreements to which Italy is a party.

The second part of the book is devoted to the national and international aspects of neighboring rights.

The third part deals with the role of public administration in the copyright field. After an historical introduction, as well as a comparative view of the situation in other countries, Mr. Galtieri describes in detail the present tasks of the *Ufficio della Proprietà Letteraria, Artistica e*

*Scientifica*, particularly as regards the formalities required by law (deposit, registration). These formalities are specified for each category of deposit and registration. Among its other functions, a special place is reserved for the supervision which the *Ufficio* is called upon to exercise over the activities of the Italian Society of Authors and Publishers.

Finally, the essentially practical purpose of this book must be stressed. It is with this purpose in mind that the author has restricted the length of his work by refraining from devoting too much space to theoretical discussion. Each chapter, on the other hand, is followed by a bibliographic note, and an analytic index assists the reader of this remarkable study.

M. S.

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*Das österreichische Verlagsrecht* [The Law of Publication in Austria], by *Robert Dittrich*. One volume of XV + 305 pages, 14 × 21 cm. Manzschsche Verlags- und Universitätsbuchhandlung, Vienna, 1969.

Examining the legal nature of the contract of publication, the author of this book declares himself to be in favor of the predominant theory according to which this contract is considered to be *sui generis*. This point of view not only has been adopted in the Austrian Civil Code but has also been accepted by legal scholars.

In his discussion, the author follows the usual order. After exposing the legal nature and constituent elements of the contract of publication, he studies the subject matter of the contract — a creation of the mind (*eigentümliche geistige Schöpfung*) — as well as its form. He then takes up the question of the obligations of author and publisher.

An important problem concerns remuneration of the author. Although remuneration is customary in most cases, it is not generally considered to be an essential element of the contract. This view accords with theory that a contract of publication is based on valuable consideration even where no money payment is stipulated. Going even further, the author of this study takes the position that a contract of publication exists (assuming its essential elements are present) even where the author or his successor in title (*Verlaggeber*) has undertaken to pay a certain sum for printing costs. However, in case of doubt, there is a presumption that the parties have agreed to an appropriate money payment to the author.

Another interesting question examined in this book concerns modification of the manuscript after delivery to the publisher. Mr. Dittrich

believes that such modification is permissible only in certain exceptional cases. One of these involves correction of errors, which is allowed with regard to any manuscript. The other concerns scientific works. Here, the author must account for any last-minute progress or change which may have taken place in the scientific field in question.

The book concludes with two chapters devoted to the problems of assignment by the publisher of publication rights and termination of contractual relations.

The article of the Austrian Civil Code relating to the contract of publication and the full text of the Law on publication rights of the Federal Republic of Germany are reproduced in the book. The reader of this thorough study is aided by an alphabetical index. M. S.

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## CALENDAR

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### BIRPI Meetings

**April 7 to 10, 1970 (Paris) — Joint ad hoc Committee on the International Classification of Patents (3rd Session)**

*Object:* Study of Draft Agreement for the revision of the European Convention on the International Classification of Patents for Invention of December 19, 1954 — *Invitations:* Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe

**April 8 to 10, 1970 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — Technical Committee IV (Microform) (3rd Session)**

**April 13 and 14, 1970 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing) (3rd Session)**

**April 13 to 17, 1970 (Geneva) — Committee of Experts for the Revision of the Madrid Agreement (Marks)**

*Object:* Study of the revision of the Agreement — *Invitations:* All member States of the Madrid Agreement (Marks); Denmark, Finland, Japan, Norway, Soviet Union, Sweden, United Kingdom, United States of America — *Observers:* African and Malagasy Industrial Property Office, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**April 15 to 17, 1970 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning) (3rd Session)**

**April 20 and 21, 1970 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems (ABCS) (12th Session)**

**April 20 to 22, 1970 (The Hague) — ICIREPAT — Technical Committee VI (Systems Implementation) (3rd Session)**

**April 22 to 24, 1970 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Design and Testing) (3rd Session)**

**April 27 to 29, 1970 (Geneva) — Committee of Directors of National Industrial Property Offices of the Madrid Union (Marks)**

*Object:* Finalization and possible adoption of revised Regulations under the Madrid Agreement — *Invitations:* All member States of the Madrid Agreement (Marks)

**April 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group I (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 29, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group II (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 30, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group III (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 1st, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group IV (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 11 to 15, 1970 (Geneva) — Working Group concerning the International Classification of Figurative Elements in Marks**

*Object:* Elaboration of a draft Classification — *Invitations:* Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Netherlands, Rumania, Spain, Sweden, Switzerland, United Kingdom — *Observers:* International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**May 14 and 15, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4th Session)**

**May 19 to 21, 1970 (Geneva) — Ad Hoc Preparatory Committee for the Revision of the Berne Convention**

*Object:* To prepare a draft text of the proposals for revision of the Berne Convention — *Invitations:* France, Germany (Fed. Rep.), India, Italy, Mexico, Tunisia, United Kingdom, Yugoslavia — *Observers:* Kenya, United States of America — *Non-participating Observers:* All other States members of the Berne Union or party to the Universal Copyright Convention; representatives from international non-governmental organizations to be appointed

- May 25 to June 19, 1970 (Washington) — Diplomatic Conference for the Adoption of the Patent Cooperation Treaty (PCT)  
*Object:* Negotiations and Conclusion of the Patent Cooperation Treaty — *Invited with the right to vote:* The member countries of the Paris Union — *Observer States:* Member States of the United Nations and the U. N. Specialized Agencies, not member countries of the Paris Union — *Observer Intergovernmental Organizations:* United Nations, International Labour Organization, United Nations Educational, Scientific and Cultural Organization, United Nations Conference on Trade and Development, United Nations Industrial Development Organization, International Institute for the Unification of Private Law, International Patent Institute, African and Malagasy Industrial Property Office, Commission of the European Communities, Council of Europe, European Free Trade Association, Industrial Development Centre for Arab States, Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents, Latin American Free Trade Association, Organization of American States, Permanent Secretariat of the General Treaty for Central American Economic Integration — *Observer International Non-Governmental Organizations:* Asian Patent Attorneys Association, Committee of National Institutes of Patent Agents, Council of European Industrial Federations, European Industrial Research Management Association, Inter-American Association of Industrial Property, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Inventors' Associations, International Federation of Patent Agents, Pacific Association for Industrial Property, Union of European Patent Agents, Union of Industries of the European Community
- June 29 and 30, 1970 (Geneva) — Sub-Committee of the Committee of Experts for the International Classification of Goods and Services (Marks)  
*Object:* Consideration of proposals for amendments and additions to the International Classification — *Invitations:* Members of the Sub-Committee
- June 29 to July 3, 1970 (London) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (2<sup>nd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- July 1 to 10, 1970 (Geneva) — Committee of Experts for the International Classification of Goods and Services (Marks)  
*Object:* Decisions concerning the proposals for amendments and additions to the International Classification — *Invitations:* All member States of the Nice Union — *Observers:* All member States of the Paris Union
- July 13 to 17, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Bureau (3<sup>rd</sup> Session)  
*Object:* Supervision and coordination of the activities of the Working Groups — *Invitations:* Czechoslovakia, Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe
- September 14 and 15, 1970 (Geneva) — BIRPI Headquarters Building Subcommittee (a Subcommittee of the Interunion Coordination Committee) (2<sup>nd</sup> Session)  
*Object:* Plans for the extension of the Headquarters Building of BIRPI — *Invitations:* Argentina, Cameroon, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Switzerland, United States of America
- September 21 to 29, 1970 (Geneva) — Administrative Bodies of WIPO and of the Paris, Berne, Nice and Lisbon Unions (Bodies to be specified later)  
*Object:* Constitution of the new organs on the basis of the entry into force of some of the Stockholm (1967) texts; elections; budget and program; other administrative questions — *Invitations:* Member States of WIPO and the Paris, Berne, Nice and Lisbon Unions — *Observers:* To be announced later
- November 2 to 6, 1970 (Geneva) — Committee of Experts for an Agreement on the Protection of Type Faces
- November 23 to 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (3<sup>rd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- December 7 and 8, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4<sup>th</sup> Session)

## Meetings of Other International Organizations Concerned with Intellectual Property

- April 1 to 3, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (4<sup>th</sup> Session)
- April 2, 1970 (Paris) — International Chamber of Commerce — Commission on International Protection of Industrial Property
- April 7 to 10, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group III (1<sup>st</sup> Session)
- April 21 to 24, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — 3<sup>rd</sup> Session
- May 3 to 6, 1970 (Istanbul) — International League Against Unfair Competition (LICCD) — Symposium
- May 4 to 6, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (1<sup>st</sup> Session)
- May 4 to 8, 1970 (Cairo) — Industrial Development Centre for Arab States — Working Group on Industrial Property
- May 4 to 9, 1970 (Asunción) — 8<sup>th</sup> Interamerican Meeting on Copyright
- May 11 to 16, 1970 (Paris) — United Nations Educational, Scientific and Cultural Organization (Unesco) — Ad Hoc Preparatory Committee for the Revision of the Universal Copyright Convention
- June 22 to 27, 1970 (Las Palmas) — International Confederation of Societies of Authors and Composers (CISAC) — 27<sup>th</sup> Congress
- June 30 to July 2, 1970 (The Hague) — International Patent Institute (IIB) — Administrative Council (103<sup>rd</sup> Session)
- July 7 to 9, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (2<sup>nd</sup> Session)
- September 2 to 5, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (2<sup>nd</sup> Session)
- September 9 to 11, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (5<sup>th</sup> Session)
- October 6 to 8, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (3<sup>rd</sup> Session)
- October 19 to 24, 1970 (Madrid) — International Association for the Protection of Industrial Property (IAPIP) — Executive Committee