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# Copyright

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## Contents

### BERNE UNION

- Committee of Governmental Experts to prepare a Model Law on Copyright for Developing Countries (Tunis, February 23 to March 2, 1976) . . . . . 139

### CONVENTIONS ADMINISTERED BY WIPO

- **Vienna Agreement for the Protection of Type Faces and their International Deposit and the Protocol Concerning the Term of Protection**  
**France.** Ratification of the Agreement and the Protocol . . . . . 152

### BILATERAL AGREEMENTS

- **Bulgaria—U. S. S. R.** Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of Bulgaria on the reciprocal protection of copyrights . . . . . 153

### GENERAL STUDIES

- Copyright and the Future of Authorship (**Barbara Ringer**) . . . . . 155

### CALENDAR OF MEETINGS . . . . . 159

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## Berne Union

### Committee of Governmental Experts to prepare a Model Law on Copyright for Developing Countries

(Tunis, February 23 to March 2, 1976)

#### Report

presented by Mr. James Duke ESSUMAN, Rapporteur,  
and adopted by the Committee

#### 1. Opening of the meeting

1.1 The Committee of Governmental Experts to prepare a Model Law on Copyright for Developing Countries (hereinafter referred to as "the Committee"), convened by the Government of Tunisia with the assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), was held in Tunis from February 23 to March 2, 1976.

1.2 Delegations from the following 27 countries took part in its work: Brazil, Cameroon, Central African Republic, Egypt, Gabon, Ghana, India, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Libyan Arab Republic, Mali, Mauritania, Mauritius, Mexico, Morocco, Qatar, Senegal, Syrian Arab Republic, Tunisia, United Arab Emirates, Upper Volta, Yugoslavia, Zaire. The Palestine Liberation Organization (PLO), four intergovernmental organizations and sixteen international non-governmental organizations sent observers. The complete list of participants is annexed to this Report (Annex 8).

1.3 The opening session of the Committee took place on the morning of Monday, February 23, 1976, in the presence of His Excellency Mr. Mahmoud Messadi, the Tunisian Minister for Cultural Affairs, Dr. Arpad Bogsch, Director General of WIPO, Mr. Jacques Rigaud, Assistant Director-General, representing the Director-General of Unesco, and of various ambassadors and members of the diplomatic corps accredited in Tunis.

1.4 His Excellency Mr. Messadi opened the Committee by welcoming the participants. His address is annexed to this Report (Annex 2). Mr. Jacques Rigaud, on behalf of the Director-General of Unesco, and Mrs. K.-L. Liguier-Laubhouet, Deputy Director General of WIPO, both thanked the Government of Tunisia for its generous hospitality and delivered addresses which are also annexed to this Report (Annexes 3 and 4).

#### 2. Election of the Chairman

At the proposal of the Delegation of Senegal, Mr. Rafik Saïd, Head of the Delegation of Tunisia, was elected Chairman of the Committee by acclamation.

#### 3. Adoption of the Rules of Procedure

The Committee adopted unanimously the Rules of Procedure as they appear in document TUNIS/UNESCO/WIPO/CML.2/2.

#### 4. Election of the other members of the Bureau

At the proposal of the Delegation of Egypt, the Committee elected as its Vice-Chairmen Mr. Ahmad Moghaddam and Mr. Gabriel E. Larrea Richerand, Heads of the Delegations of Iran and Mexico, respectively, and as Rapporteur Mr. James Duke Essuman, Head of the Delegation of Ghana.

#### 5. Adoption of the agenda

The Committee unanimously adopted its agenda as it appears in document TUNIS/UNESCO/WIPO/CML.2/1, amending item 7 to read "Adoption of the Model Law."

#### 6. Preparation of a Model Law on Copyright for Developing Countries and a Commentary on it

##### *Presentation of the preparatory documents*

6.1 These were presented by the Secretariat of the Committee and consist of a draft model law (hereinafter referred to as "the draft") finalized by the Secretariat of Unesco and the International Bureau of WIPO following the Committee of African Experts which met in Abidjan in October 1973, and a commentary on this draft prepared by the two Secretariats (document TUNIS/UNESCO/WIPO/CML.2/3). Also included are the comments received from States and those from intergovernmental organizations and international non-governmental organizations (documents TUNIS/UNESCO/WIPO/CML.2/4 and 5).

*General discussion*

6.2. Before proceeding to a detailed section-by-section study of the draft, the Committee heard a certain number of statements of a general nature.

6.3 The delegate of Senegal, and other delegates after him, thanked the Government of Tunisia for its hospitality. Tunisia was one of the first signatories of the Berne Convention for the Protection of Literary and Artistic Works and one of the first African States to be endowed with a copyright law. The delegate of Senegal stated that in his opinion the draft model law prepared by the Secretariat of Unesco and the International Bureau of WIPO in accordance with the recommendations of the Abidjan Committee of Experts had the merit that it successfully accommodated both the Anglo-Saxon and Roman legal systems and the standards of protection established by the two major international copyright conventions. However, he considered that, although everything had been done for a legislative model on copyright for the use of developing countries, this model was not always such that it would provide effective guidelines for the national legislator. The delegate of Senegal regretted that a certain number of questions, to which several developing countries had found solutions, had been left in suspense in the draft submitted for the Committee's consideration. He also regretted that the exceptions and reservations provided for in the international conventions should in the draft have been made the rule as if they had been made for the specific use of the developing countries.

6.4 The delegate of Kenya, like the delegate of Senegal, indicated that the authors of the draft model law had come up against the major difficulty resulting from the necessity of accommodating in a single text widely differing legal concepts, but he considered that the draft under discussion constituted the best possible compromise among all these concepts, without abusive recourse to alternatives or optional provisions. He emphasized that it was in the interests of the developing countries to protect their authors in order to promote national intellectual creation and to limit the too great dependency on foreign works, which was prejudicial to the development of their own cultural heritage. He also noted that the basic principle of national treatment contained in the international copyright conventions required that the same protection be assured to national authors and to foreign authors, with the result that the excessive protection of copyright ran the risk of being translated into a large drain of foreign exchange since the developing countries are basically importers of foreign works. Consequently, the developing countries should, as far as copyright protection was concerned, find an adequate balance and he considered that the draft had succeeded in finding this balance,

in particular through the use of the exceptions provided for by the international conventions in the field, as was already the case in various English-speaking countries.

6.5 The delegate of Ghana largely shared the point of view expressed by the delegate of Kenya. He stressed the difficulties which resulted from the fact that some of the countries to which the draft was addressed were party to only one of the two international copyright conventions, a difficulty concerning the term of protection, for example, or the recognition of a moral right.

6.6 The delegate of Mexico stressed that the model law's value was solely that of a model but he nevertheless regretted that the draft under discussion did not pay enough attention to certain basic principles corresponding to minimum levels of copyright protection. He considered that the draft would not encourage intellectual creation because it did not achieve a satisfactory balance between the protection of authors and the rights of the community to accede to works of the mind. He stated that, in his opinion, the project was much too favorable to the interests of those persons who profited from the exploitation of the authors' works.

6.7 The delegate of the Libyan Arab Republic expressed the opinion that each country should dispose of a national law adapted to its own needs and local conditions. He emphasized that the diversity of the developing countries made it extremely difficult to prepare a text which would respond to the needs of all these countries.

6.8 The delegate of Morocco observed that the draft submitted to the Committee was more complete and better formulated than the one prepared previously but he nevertheless considered that the text could still be improved, as was revealed by the comments and observations made by the States and organizations. In view of the difficulties of reconciling in a single text the imperatives and needs of countries, very different from a cultural, economic and social point of view and for which the draft was intended, he stated that the latter merely constituted a basic text to which each legislator would be called upon to make the necessary modifications. He recalled that a certain number of developing countries were party to the Berne Convention and therefore possessed a domestic law that gave better copyright protection than the proposed model law. He expressed the fear that because of its rather low level of protection the model law would rapidly become inadapted to the needs of the developing countries and would be prejudicial to the interests of the authors of these countries. He therefore desired that this level of protection be improved and that the text be made more precise on certain points.

6.9 The delegate of Egypt indicated that his country had had a copyright law since 1954 and that it was now contemplating acceding to the Berne Convention.

6.10 The delegate of Brazil stated that the level of copyright protection granted by the legislation of his country was much higher than that provided for in the draft model law and he regretted that this draft proposed a model law that was insufficient in this respect.

6.11 The observer from the Palestine Liberation Organization (PLO) stated that the struggle of the Palestinian people against Zionism was also a cultural struggle to the extent that the Palestinian cultural heritage and, in particular, its folklore were seriously threatened. He gave examples of acts of pillage and asked the States and organizations such as Unesco, whose mission was to protect the cultural heritage of peoples, to give their assistance to the cause he was defending.

6.12 The observer from the International Writers Guild (IWG) pointed out that the independence of a country was bound up with the birth of a national cultural heritage, which was dependent on a high degree of copyright protection. He stated that in his opinion a policy of weak protection ran the risk of compromising the very existence of national authors and the development of a national culture and he observed that several developing countries in Africa had, for this reason, adopted laws which gave a high level of copyright protection. Moreover, he considered that the decision to prepare a single model law for all developing countries was not a happy one and that it had resulted in a text consisting of an amalgam of provisions taken from legal concepts that were basically very different and sometimes contradictory.

6.13 The observer from the International Confederation of Societies of Authors and Composers (CISAC) stressed that the purpose of any copyright law should be to protect authors and not to promote the activities of the users of their works by giving less protection to literary and artistic creation. He stated that national cultures could develop only if the sources of intellectual creation had effective protection, since such protection would encourage authors, and the authors of developing countries in particular, in their creative work. He regretted that the draft model law did not meet these requirements. Finally, he stressed that copyright royalties do not represent a very heavy burden in the balance of payments of any country.

6.14 The observer from the International Music Council (IMC) drew the attention of the Committee to the difficulty, insofar as music was concerned, of distinguishing between the composer and the

interpreter, in particular in the case of improvisations. He asked that the draft be clarified accordingly.

#### *Detailed study of the draft model law*

6.15 At the conclusion of the general discussion, the Committee proceeded to a detailed section-by-section study of the draft model law. It made a certain number of changes in the draft, which are summarized below.

#### *Section 1 — Protected works*

6.16 The adjective “scientific” has been added to subsection (1) after the words “literary and artistic” and it was agreed that the expression “literary, artistic and scientific works” would be retained throughout the Law.

6.17 Paragraph (iv) of subsection (2) has been modified to read as follows: “musical works, whether or not they are in written form and whether or not they include accompanying words.”

6.18 Paragraph (vi) has been modified to read as follows: “cinematographic, radiophonic and audiovisual works.”

6.19 With respect to paragraphs (vii) and (ix), it was agreed that the commentary should indicate the various forms of graphic and three-dimensional expression.

#### *Section 2 — Derivative works*

6.20 The word “protected” has been substituted for the word “considered” in the first line of subsection (1).

#### *Section 3 — Works not protected*

6.21 No changes were made to this Section.

#### *Section 4 — Economic rights*

6.22 Paragraphs (iii), (iv) and (v) have been regrouped into a single phrase reading as follows: “to communicate the work to the public by performance or by broadcasting.”

6.23 The specific reference to the right to put into circulation (or right of distribution) in the acts referred to in Section 4, which had been proposed by certain delegates, was not adopted. It was agreed, however, that the commentary would refer to this proposal and explain its scope.

#### *Section 4<sup>bis</sup> — Droit de suite*

6.24 No changes were made to this Section.

#### *Section 5 — Moral rights*

6.25 It was decided to add a new subsection stipulating that moral rights are perpetual, inalienable and imprescriptible; this subsection would be placed before those which are in square brackets and which comply with the Anglo-Saxon legal approach. At the adoption of this Report, the delegate of Kenya drew

attention to the fact that this new subsection did not correspond to the conceptions of countries with an Anglo-Saxon legal tradition and asked that it also appear in square brackets.

#### *Section 6 — Works of national folklore*

6.26 In subsection (2), it has been stated that works of national folklore are protected “by all means.”

6.27 Subsection (3) has been changed in such a way as not to permit the authorization of either the import of copies manufactured abroad or their distribution in the national territory.

6.28 Several delegates expressed the wish that a provision be introduced into the text of the Law giving the destination of the remuneration derived from the exploitation of works of national folklore; this proposal has been incorporated in Section 17 which deals with the *domaine public payant*.

#### *Section 7 — Fair use*

6.29 It was decided to state in subparagraph (a) of paragraph (i) that the use referred to in this provision should be “personal and private.” With respect to the acts referred to in the said provision, it was agreed that the commentary would indicate that certain delegates wondered whether it was appropriate to retain the words “adaptation, arrangement or other transformation.”

6.30 The drafting of subparagraph (b) on quotations has been revised to clarify the three conditions to which this limitation is subject, viz., compatibility with fair practice, extent justified by the purpose and mention of the source and the name of the author. In addition, it was agreed that the commentary would indicate, by means of examples, the scope of the condition relative to the extent justified by the purpose.

6.31 Subparagraph (c) was redrafted in order to emphasize that the acts referred to in this provision must be carried out for the purposes of teaching.

6.32 The reference to broadcasting in paragraphs (ii), (iii) and (vi) has been deleted so that these provisions are aligned with the new drafting of Section 4.

6.33 So that all works of art will be covered, the adjective “figurative” has been deleted in paragraph (iv).

6.34 It has been stipulated in paragraph (vi) that reproduction “in the press” is meant.

#### *Section 8 — Ephemeral recordings*

6.35 The expression “without the authorization of the author” has been deleted, the word “authorized” has been substituted for the word “entitled” and a reference to the application of the provisions relating to the moral rights has been added.

6.36 Moreover, it was agreed that the commentary would stipulate that generally speaking, since cinematographic works had already been fixed, they could not give rise to ephemeral recording, with the exception of isolated sequences taken from films for inclusion in television programs. In addition, the commentary should indicate that certain delegates would have preferred to have stated in the text of the Law that ephemeral recordings should be permitted only for non-commercial broadcasts.

*[Former Section 9 of the draft — Limitation of the right of broadcasting and public communication of broadcast works]*

6.37 The draft included a provision on this subject. After a full discussion the Committee decided in the first place to make some amendments and additions and to place it in square brackets so that it would be optional.

6.38 However, when adopting the text of the Model Law, the Committee decided, by 12 votes in favor, 5 against and 6 abstentions, not to include such a provision in the Model Law. The delegate of Kenya then stated that he thought that the Model Law should have included a Section 9 drafted as follows:

“(1) Notwithstanding Section 4 and subject to subsection (2), the broadcasting of a work which has been made available to the public with the consent of the author, and the communication to the public of the work broadcast, is lawful, provided that, except in a case of *force majeure*, the broadcasting organization has contacted the author and that the latter receives an equitable remuneration; the amount of such remuneration, in the absence of an agreement with the author, shall be fixed by the competent judicial authority, after having given an opportunity to the interested parties to be heard. This is without prejudice to the application of the provisions of Section 5.

(2) Subsection (1) does not apply in the case of works concerning which an association of authors, or other organization, registered or operating in the country, has obtained from the authors of such works the right to authorize broadcasting.”

*[Former Section 10 of the draft — Limitation of rights concerning sound recordings]*

6.39 For reasons similar to those which led certain delegates to request the deletion of Section 9, it has been decided to delete Section 10 of the draft.

*Section 9 — Limitation of the right of translation (former Section 11)*

6.40 No changes were made to this Section.

*Section 10 — Limitation of the right of reproduction*  
(former Section 12)

6.41 No changes were made to this Section.

*Section 11 — Ownership*  
(former Section 13)

6.42 It was decided to group in a single subsection (subsection (2)) the provisions relating to works created under a contract of service and commissioned works, which had been the subject of subsections (2) and (3) respectively, and to provide for two alternatives corresponding to the Anglo-Saxon or Roman legal concepts.

6.43 The former subsection (4) has been re-drafted and is now included in subsection (3) in order to accommodate the following changes made in the draft. It applies exclusively to cinematographic works, in view of the deletion of any reference to audiovisual works and in view of the fact that the proposal to allude to works expressed by a process analogous to cinematography was not adopted. With respect to the copyright ownership of these works, it includes two alternatives, once again corresponding to the Anglo-Saxon or Roman legal approach. In the definition of the maker, it states that the responsibility of the latter must be a financial one. It stipulates that the contracts must be concluded in writing, that the presumption of assignment shall be of limited duration and that this applies to the cinematographic exploitation of the work. Finally, it stipulates that this presumption is not applicable to pre-existing works used for the making of the cinematographic work.

6.44 In addition, it was agreed that the commentary would indicate that certain delegates had considered that the assignment of the copyright to the maker of a cinematographic work was not favorable to the author.

*Section 12 — Transfer*  
(former Section 14)

6.45 Three subsections have been added to this Section in order to state clearly that all the rights which are not expressly mentioned in the contract shall be considered as reserved, that the transfer is strictly limited to the uses provided for in the contract and that the transfer of the *corpus mechanicum* does not imply the transfer of the copyright in the work.

6.46 An additional subsection of an optional nature, in square brackets, assigns certain functions to the competent authority.

*Section 13 — Duration of economic rights*  
(former Section 15)

6.47 No changes were made to this Section except in subsection (4) to align it with the new drafting of Section 1, subsection (2), paragraph (vi).

*Section 14 — Organization of authors*  
(new Section)

6.48 It was decided to incorporate in the Model Law a new provision concerning the competence of organizations of authors. In this respect, the Committee strongly recommended that everything possible be done to create such organizations in the developing countries where they do not yet exist.

*[Former Section 16 of the draft — Control of the granting of licenses]*

6.49 The delegate of Kenya proposed that, as in the draft, the Model Law should include a Section 16 reading as follows:

“Where any person or organization which controls the granting of licenses in respect of works of a substantial number of authors refuses unreasonably to grant licenses, or subjects such licenses to conditions which are not reasonable, the competent authority may, after having given an occasion to the interested parties to be heard, determine appropriate conditions under which a person or organization may obtain the said licenses.”

6.50 Several delegates requested the deletion of this provision and, after a detailed discussion, it was so decided.

*Section 15 — Infringements and sanctions*  
(former Section 17 — Infringements)

6.51 The word “*atteinte*” was substituted for the word “*infractio*” in the French text throughout this Section since the latter can be interpreted as giving rise to exclusively penal sanctions.

6.52 In addition, the presentation of the French text of subsection (1) of this Section has been divided into three subsections as in the English text.

6.53 It has been decided to include a new subsection (subsection (2)) providing for the curbing by all legitimate means of any infringements considered as violating the national heritage.

6.54 The former subsection (2) has thus become subsection (3); the French text has been slightly modified pursuant to the substitution of the word “*atteinte*” for the word “*infractio*.”

6.55 It has been decided to add a new subsection (subsection (4)) relating to the proof of infringement of any one of the rights protected.

*Section 16 — Field of application of Law*  
(former Section 18)

6.56 In subsection (2), Alternatives X and Y have been completed by a reference to works of national folklore.

6.57 It has been decided to modify subsection (3) in order to stipulate that the Law is applicable to works created or published subsequently to

its coming into force. Nevertheless, a sentence concerning the retroactive application of the Law has been added, but in square brackets, thus making it optional.

*Section 17 — “Domaine public payant”*  
(new Section)

6.58 It has been decided to insert in the Model Law a new provision constituting a *domaine public payant*. The optional character of this provision was rejected, the majority of the Committee (ten in favor, seven against with one abstention) having voted against placing it in square brackets.

6.59 It has also been agreed that the commentary will state that, for the purposes of the application of this provision, the term “authors” also covers “translators.”

*Section 18 — Definitions*

6.60 No changes have been made in the definitions of “broadcasting,” “competent authority,” “published works,” “reproduction,” “works first published” and “work of joint authorship” appearing in paragraphs (i), (iii), (vi), (vii), (viii) and (ix), respectively.

6.61 The definition of “folklore” in subsection (iv) has been completed by adding, after the words “by authors,” the phrase “presumed to be nationals of such countries or by ethnic communities.” The word “unidentified” has been deleted.

6.62 In paragraph (ii) “communication to the public,” the phrase “by any mode of visual or acoustic presentation, but does not include a broadcast or a performance” has been deleted.

6.63 It has been decided to indicate that the public performance or delivery of a work is “by any means whatsoever” and to delete the word “live.”

*Appendix A. — Translation licenses*

*Appendix B. — Reproduction licenses*

6.64 No changes have been made to the text of the provisions contained in these Appendices.

*Commentary*

6.65 The Committee has charged the Secretariat of Unesco and the International Bureau of WIPO to revise the text of the commentary which accompanied the Model Law, in light of the discussions and decisions reflected in this Report.

*Arabic text of the Model Law*

6.66 In application of the provisions of Rule 4 of its Rules of Procedure, the Committee constituted a working group composed of the delegations of the following countries: Egypt, Irak, Jordan, the Libyan Arab Republic and Tunisia, as well as the

observer from the Palestine Liberation Organization (PLO), for the revision of the terminology of the Arabic text of the Model Law.

6.67 However, since the finalization of this version required a far-reaching revision of the text, the working group was not able to complete its work. Several solutions were then proposed, including the organization by the secretariats of a subsequent consultation of Arabic-speaking States. The delegate of the Syrian Arab Republic stated that he would look into the possibility of a meeting of a group of Arabic-speaking specialists at Damascus, on the invitation of his Government in cooperation with ALECSO.

## 7. Adoption of the Model Law

At the conclusion of its discussions, the Committee adopted the Model Law on Copyright, the text of which is annexed to this Report (Annex 1).

## 8. Adoption of the Report

The Committee adopted this Report.

## 9. Closing session

9.1 Before concluding its work, the Committee asked its Chairman to address to His Excellency the President of the Republic of Tunisia a telegram expressing its gratitude for the audience that His Excellency was kind enough to grant to the Committee on February 25, 1976. The text of this telegram, which was adopted by acclamation, is annexed to this Report (Annex 5).

9.2 The Committee also adopted by acclamation a draft resolution expressing its gratitude to the Government of Tunisia for convening the Committee, and for the generous hospitality it has received. The text of the resolution is annexed to this Report (Annex 6).

9.3 In addition, the Committee decided to address a message of thanks to His Excellency Mr. Messadi, the Tunisian Minister for Cultural Affairs, for having graciously opened the Committee and for his mark of attention throughout its work. The text of the message is annexed to this Report (Annex 7).

9.4 The delegates of Cameroon, Central African Republic, Egypt, Ghana, Mauritania, Morocco and Senegal indicated their satisfaction at the positive conclusions of the Committee's discussions; they considered that the Tunis meeting constituted a step forward in the consolidation of the personality of the Third World and they expressed the hope that the results of the Committee's work would be beneficial to the interests of authors in the developing countries.

Expounding the unanimous feelings of the Committee, they congratulated its Chairman for the competence and wisdom with which he had conducted the debates and thanked the Secretariat for its efficient assistance.

9.5 The observer from the Palestine Liberation Organization (PLO) associated himself with these statements and expressed his thanks to the Tunisian Government for having invited his organization to participate in the work of the Committee, thus revealing its understanding of the just cause of the Palestinian people.

9.6 The observer from the International Writers Guild (IWG), speaking in the name of the observers from the international non-governmental organizations, thanked the Tunisian authorities for their invitation and addressed to the Chairman of the

Committee his hearty congratulations for the way in which he had conducted the work of the Committee.

9.7 Mrs. K.-L. Liguier-Laubhouet, Deputy Director General of WIPO, and Mr. C. Lussier, Director of the Office of International Standards and Legal Affairs of Unesco, associated themselves, in the name of their respective Organizations, with the testimonies expressed with respect to the Tunisian Government and the Chairman of the Committee.

9.8 At the proposal of the delegate of Morocco, the Committee decided to associate the name of Tunis with the Model Law which had been adopted.

9.9 After thanking the participants for their spirit of international cooperation and expressing the hope that the work accomplished by the Committee would have lasting repercussions on the promotion of copyright in the developing countries, the Chairman declared the meeting closed.

## ANNEXES

### *Annex No. 1*

#### **Tunis Model Law on Copyright**

(The text of the Model Law, with its Commentary, will be published in the next issue of this review)

### *Annex No. 2*

#### **Address delivered by His Excellency Mr. Mahmoud Messadi, Minister for Cultural Affairs**

Your Excellencies,  
Honorable Delegates,  
Ladies and Gentlemen,

It is for me a great honor and pleasure to extend, on behalf of the Government of Tunisia, a warm welcome to our guests (governmental delegates, representatives or observers from intergovernmental organizations and international non-governmental organizations) who have been kind enough to accept our invitation, thus revealing their interest, and that of the high authorities who have sent them, in the protection of intellectual creation and the dissemination of its works.

I should like to salute in particular the presence among us of the Director General of WIPO and the representative of the Director-General of Unesco and to express to them our deep gratitude for the valuable assistance that their Organizations have given us in the preparation and organization of this meeting.

We are fully aware that these two international bodies have, through their long-continuing work, opened the door to the task to which you, Ladies and Gentlemen, are now preparing to devote yourselves: the preparation of a Model Law on Copyright for Developing Countries.

It is to the efforts, fortunately joint, of the respective Secretariats of these two Organizations that we are indebted for the preparation of the commentary and of the text of the draft model law, which will be a valuable working document, although it does not restrict, nor pretend to restrict, your freedom of reflection as a committee of governmental experts.

It is, indeed, as governmental experts that you are preparing yourselves to assume the exciting but heavy responsibility of proposing to the governments of developing countries a legislative model which they may use as their inspiration, while making allowance for their own interests. If this model, which you are preparing yourselves to put at their disposal, is to fulfil expectations it must satisfy a dual exigency that is also paradoxical: on the one hand, it must conform to the standards of the conventions in order to permit those States which adopt it to accede to the international conventions and benefit from them and, on the other hand, it must make allowance for their particular interests as developing countries anxious to assure adequate international protection for their own works and at the same time intent on facilitating far-reaching, rapid access to foreign works protected under the copyright laws of their country of origin.

The paradox is now merely a purely formal one that claims to oppose the basic rights — which are recognized because common sense invented them and they existed before they were granted by Article 27 of the Universal Declaration of Human Rights — that man has, must have the right “freely to participate in the cultural life of the community” and, at the same time, as a cultural creator to have protection for “the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

If, indeed, as has been said by the Director-General of Unesco, the right to participate in the cultural life of the community should be translated by as far-reaching and easy access as possible to knowledge, in particular by those who have the greatest need for the books and other intellectual works that are the vehicles of science and culture and who dispose of few resources to pay the price of such works, it is no less true that the material and moral interests of these intellectual creators must be protected if intellectual creation is to be supported and encouraged and is to continue to be a rich source of knowledge and beauty.

But, contrary to appearances, these two goals are not irreconcilable in spite of the apparent paradox they constitute which is at times experienced dramatically by human

communities subject to an economic and social gulf separating them into countries which are developed and those that are not.

The international cultural organizations could not but become aware that this paradox did not stand up to lucid analysis and the persevering determination to transcend it.

Thus, conscious of the legitimacy and the gravity of the reticence shown by the newly independent countries with regard to the conventions that preceded their accession to sovereignty, Unesco, since the fourteenth session of its General Conference in 1966, in association with other competent bodies in the field of intellectual property rights and copyright, has not ceased to promote international instruments that take account of the economic, social and cultural realities of the developing countries.

At Stockholm, in 1967, a protocol with this end in view was adopted amending the Berne Convention for the Protection of Literary and Artistic Works.

At Washington, in 1969, a Working Group proposed amendments to the Universal Copyright Convention.

Finally, in 1971, at the request of the Intergovernmental Copyright Committee, WIPO and Unesco, the Conference for the Revision of the Universal Copyright Convention met in Paris, concluded its analysis and established an effective approach to the problem and the best means of solving it.

It is thanks to this effort of reflection that the world of intellectual creation now has at its disposal the Universal Copyright Convention as revised at Paris on July 24, 1971, which has the advantages over the Convention of September 6, 1952, of which you are more aware than anyone, but which I will recall in homage to the spirit which presided over the achievement of this step forward rather than in an attempt at a legal exegesis which would serve no purpose before specialists:

- extension of the concept of copyright to include — in addition to the right of translation which was already included — the basic rights of reproduction, of public performance and of broadcasting;
- introduction of more flexible provisions, better adapted to the needs of the developing countries for teaching, scholarship or research; for example, the period of seven years previously necessary to obtain a translation license has been reduced to three years for works intended for teaching, scholarship or research, and even to one year for translation into a language not in general use in one or more of the developed countries. Moreover, provisions in favor of the developing countries have been made in the provisions on the reproduction of documents.

The new provisions, which accommodate the interests of the developed countries considered as essentially "producers," are therefore clearly more favorable than previous ones to the developing countries, considered as essentially "consumers." They should, therefore, make accession to the copyright agreements more attractive to them, in that they are less prejudicial to their interests.

The final stages followed quite naturally: a Committee of African Experts met in Abidjan in October 1973 at the invitation of Unesco and studied the characteristics of the national laws to be adopted in order to better exploit the possibilities offered by the new international agreements.

The text that is proposed for your consideration today, and the accompanying commentary, are based on that work.

And this demonstrates the spirit of continuity, the logic, that have presided over this long journey which was inspired from the outset — as I am convinced that it will continue to be throughout your work — by faith in man and in the future of man. For it is faith in man that prompts the refusal of segregation in the field of cultural creation, and the

acceptance of the evidence that such segregation is prejudicial, both in the long and medium term, to those which it claims to protect. By insisting on a definition of cultural bodies and works which leaves no creation of the human mind in the shadow, a definition of fairness, of cultural justice, which leaves no place for discrimination between the various forms of human creation, we are working for the establishment of universal solidarity among all creative minds, the portent and guarantee of mutual knowledge and esteem, and a universal, enduring solidarity among all peoples.

Ladies and Gentlemen,

It is because I know that you are inspired by these same convictions, because your presence here is a proof and gauge that you share the same faith in culture and, *a fortiori*, in cultural cooperation as an instrument of historic change, that, in opening the work of your Committee, I take the liberty of expressing my profound faith in the complete success of your meeting.

*Annex No. 3*

**Address delivered by Mr. Jacques Rigaud,  
Assistant Director-General,  
representing the Director-General of Unesco**

Your Excellency,  
Excellencies, Ladies and Gentlemen,

It is an honor and a pleasure for me to be taking part, together with the Tunisian authorities and the Director General of WIPO, in the opening session of the Committee of Governmental Experts to prepare a Model Law on Copyright for Developing Countries. The Director-General of Unesco, Mr. Amadou-Mahtar M'Bow, is at present on an official visit to Brazil and deeply regrets that he cannot be here with you today. He has asked me first of all to express his gratitude to the Tunisian Government for having convened this Committee of Experts. The traditional hospitality of its people and its vocation as a cultural crossroad made Tunisia particularly qualified to welcome us on this occasion. And we should especially like to greet Mr. Mahmoud Messadi, the Minister of Cultural Affairs and Member of the Executive Board of Unesco, who has honored with his presence this our opening session. We are in addition delighted to note the participation of Mr. Rafik Saïd, who is also well known to Unesco, and to congratulate Mr. Abderrahmane Amri who has been so active in the organization of this meeting; and, finally, we should like to take this opportunity to pay homage to the active cooperation of the Tunisian Permanent Delegation to Unesco.

Mr. M'Bow has also asked me to emphasize to you the importance that he attaches to the work of your conference, which has been organized with the collaboration of WIPO and Unesco; he is awaiting the results with great interest. Unesco is giving its support to this meeting pursuant to Resolution 6.12 adopted by the General Conference at its eighteenth session, because of the role played by copyright in the implementation of two of the major goals of the Organization in the field of the right to culture as defined in Article 27 of the Universal Declaration of Human Rights and Article 15 of the International Agreement on Economic, Social and Cultural Rights, i.e., in the first place the right of every person "freely to participate in the cultural life of the community" and, secondly, the right of every individual "to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

It would appear that these principles are unanimously recognized. And yet the road to be travelled between their proclamation and their effective implementation remains a

long one. We should like this relationship between the creator and the public, between those animated by the fire of an enquiring mind and the vast band of those thirsting to learn and communicate, to be an immediate, tangible, fraternal relationship; but it is complicated, even impeded or completely destroyed by material constraints, by the unwieldiness of economic and social organizations and by all that is detrimental to the understanding of men and nations.

Thus Unesco, which under its Constitution was created for the purpose of "advancing, through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind for which the United Nations Organization was established and which its Charter proclaims," has one of its fundamental aims to make this right to culture an effective right. And this will be done in two ways. In the first place by encouraging creation through the adequate protection of creators and their works and by assisting the dissemination of these works within the societies for which they were created. And secondly by developing and deepening relations between cultures which, beyond national differences, ideological divergencies and economic disparities, is the principal foundation for international understanding and cooperation based on the mutual respect of peoples.

But if we examine the present situation in the world, we are forced to admit the great disparity that exists between different countries in the field of intellectual creation and the growing dependency of the developing countries on the developed countries with respect to access to the works of the mind which are indispensable to the progress of education, science and culture. The statistics reveal that there is a link between the production of books and other printed and audiovisual materials and the general development rate. Thus of the 561,000 titles produced in the world in 1972, 10,000 were produced in Africa, 95,000 in North America, 17,000 in South America, 109,000 in Asia and 328,000 in Europe. The statistics on the number of titles produced per million inhabitants are even more revealing. As an example, the number is 527 in Europe, 395 in the United States of America, whereas it is 49 in Asia, 85 in South America and 27 in Africa.

Consequently, at great expense and in the face of many difficulties the developing countries are obliged to resort to importing or translating works published elsewhere, works which, in fact, are not always adapted to their needs. Only the development of their own national culture can provide a satisfactory solution. A great deal of time will be needed. But for a people, as for an individual, genius is patience and today we feel that peoples are resolved to make the long journey of self-discovery in order to be masters of their cultural identity.

The regional meetings on book promotion in Asia, in Africa, in Latin America and in the Arab States, convened by Unesco in Tokyo, Accra, Bogota and Cairo in 1966, 1968, 1969 and 1972, respectively, pursuant to a long-term plan to assist developing States to strengthen national activities in the fields of publishing and dissemination, revealed ways in which the imbalance between domestic needs and production can be remedied. Thanks to the progress of education and science, to the transfer of knowledge and the endogenous development of cultures, it is in particular indispensable to bring into being a new generation of national authors capable of writing those works that are indispensable on all kinds of subjects and in particular those dealing with science, technology and teaching.

Copyright protection under domestic law constitutes a first essential step. By allowing creators to live on the income from the use of their works, it will in fact favor the creation of a class of professional authors devoting all their efforts to the creation of literary, pedagogic,

scientific, technical and artistic works and thus serve to create an immense reserve of works which, in different degrees, are addressed to all classes of the population and to the populations of other States. This explains just how delighted Unesco is at the initiative of the Tunisian Government in convening this Committee of Experts to prepare a Model Law on Copyright for Developing Countries.

May I also point out the importance and the exemplary value of the step that has led us to meet here: for experts, working in close collaboration with two organizations within the United Nations system, to establish a text which will be proposed to a large number of States for incorporation in their own way in their national legal systems, seems to me a new step forward in the organization of international society, consistent with the respect of national sovereignty and the imperatives of the solidarity and interdependence of States.

In view of the diversity of ethnic groups, of cultures and languages, of levels of development, and of political and economic structures, a model law doubtless cannot provide a universal plan that is uniformly applicable. It should nevertheless be considered as an effort towards synthesis based on an exhaustive analysis of the available data of all kinds which had to be taken into consideration. The draft proposes general solutions which can be adapted to the specific situations of the various countries of the third world.

With respect to the content of this Model Law, or rather this legislative model, I should like to make the following observations which seem to me of paramount importance.

In the first place, the draft law which will provide the basis for your discussions, and which has been submitted to you jointly by the Secretariat of Unesco and the International Bureau of the World Intellectual Property Organization, was prepared by the two Secretariats following the meeting of the Committee of African Experts which was convened by the Director-General of Unesco in Abidjan from October 8 to 12, 1973, at the generous invitation of the Government of the Ivory Coast; thus, it has already been the subject of detailed study by specialists from developing countries.

In the second place, if the necessity of protecting both the moral and economic rights of creators is obvious, it is also obvious that this protection must be organized in such a way as to permit authors and works to reach an ever wider public, thus favoring the development of education, science and culture. From this viewpoint, the accent should be put on the social significance of intellectual property and on the necessity of considering copyright not only from the angle of justice to authors in their relations with the customary users of their works but within the broader framework of the educational and cultural needs of the international community and, in particular, of those who, within this community, are the most deprived. Consequently, the governmental authorities of all countries should take into account, for the determination of the standards applicable in the field of copyright, the interdependence which exists between, on the one hand, the legitimate protection of works of the mind and their dissemination and, on the other, development policies in the fields of education, science and culture. Far from being contradictory, these two goals are in fact complementary; the temporary facilities granted in favor of the least favored public are, in the long run, to the advantage of the intellectual creator since they will tend to widen his audience and, thus, to add to his prestige and even, in the more or less short term, to the material benefits which are the guarantee of his equanimity and his creative independence.

In the third place, it should be stressed that international relations in the field of copyright, as they result from the 1971 revised texts of the Universal Convention and the

Berne Convention, which contain special provisions in favor of the developing countries, have been taken into consideration by the authors of the draft model law that has been submitted to you. Since works of the mind have a truly worldwide vocation, it was appropriate for the Model Law which will be the conclusion of your work to permit those States that so desire to become party to one or the other of these Conventions. Alternatives have been given in order to ensure freedom of choice to the countries concerned between the rather more restrictive rules of the Berne Convention and the more flexible system of the Universal Convention.

In addition, I should like to draw your special attention to Section 6 of the draft law which deals with folklore. You will doubtless be interested to know that Unesco, within the framework of its activities to assist developing countries in the resurrection and development of their national cultures, is at present studying, by means of interdisciplinary research, the possibility of preparing and adopting an international instrument specifically for folklore, for the purpose of protecting and safeguarding the whole of this cultural heritage. Up to the present, specialists have considered that, although legal intervention is necessary for the better protection of folklore, the relationship between folklore and the law is a very complex one. It is true that several developing States have dealt with the problems of popular traditional culture in their domestic copyright laws. This is the case in particular in Algeria, Bolivia, Kenya, Morocco, Senegal and Tunisia. However, the question remains whether copyright is the appropriate framework. On the one hand, the completely original nature of folklore means that works of folklore cannot be assimilated with other works of the mind. On the other hand, the complexity of the folklore phenomenon allows us to affirm that legal protection against all that is derogatory to its authenticity is only one of the "volets" of a whole which comprises simultaneously identification, conservation and the protection of folklore, and these can be dissociated only with difficulty.

I should also like to remind you — although this is not strictly within the framework of the immediate preoccupations of your Committee of Experts — that the Secretariat of Unesco is at the disposal of those Governments who require assistance in the preparation or revision of their domestic law, in the creation of the necessary framework for the effective application of such legislation and also for the training of specialists on copyright questions.

In addition, an International Copyright Information Centre has been operating within Unesco since 1970, in order to help solve the difficulties of a practical nature which developing countries encounter when they wish to use protected works — difficulties in the gathering of data, the negotiations to obtain the necessary permissions for the reproduction, translation or adaptation of a work, or those caused by their economic situation. Within this Centre, discussions have already taken place with numerous Member States.

I do not wish to delay further the beginning of your discussions. However, I should like to insist a last time on their importance in view of their nature and their timing. If you will allow me to make a rather personal remark, I should like to say how happy I am that one of the first missions abroad entrusted to me by Mr. M'Bow should be to represent him, on African soil, at a meeting the great interest of which I, as a lawyer and as a writer, can fully appreciate. From a more general viewpoint, I should like to observe that the new international economic order, of which so much is said, would fail to achieve its goal if it dealt only with material exchanges of goods and services. All of us gathered here are well aware that books, films and tapes, although they are all objects with a weight and a

price, are merely humble supports for that perpetual and priceless *je ne sais quoi* that the work of the human mind represents, and over which no material consideration should prevail.

In their search for and exaltation of their cultural identity, the developing countries should both preserve the integrity of their heritage through the utilization of the instruments and techniques of progress, and take part in the immense adventure of intellectual and artistic creation. From this point of view, everything counts, the community and the individual, tradition and innovation, the law and organization as well as the flowering of solitary inspiration. You who are about to talk of books and authors, and who in many cases come from countries where the oral tradition has retained its value and its fragility, remember the saying of the Malian author Hampate Ba: "An old man who dies is like a library in flames." Inversely, we could say that a book or any other work that we do not make the effort to get to know and to propagate is like a man buried in the ground.

Your discussions, which will now open, should permit new advances in the exchange between individuals and peoples. The task before you is a complex, delicate one, but I am convinced that you will be able to find the standards and formulae which will permit copyright to play its role to the full within the general perspective of development and of international understanding and cooperation. Thus, it is with confidence that I present you with my warm, fraternal wishes for the complete success of your work.

*Annex No. 4*

**Address delivered by Mrs. K.-L. Liguier-Laubhouet,  
Deputy Director General  
of the World Intellectual Property Organization (WIPO)**

Your Excellency,  
Excellencies, Ladies and Gentlemen,

I should like first of all to thank most warmly the Government of Tunisia for having convened at Tunis this Committee of Experts to prepare a Model Law on Copyright for Developing Countries. I wish to thank in particular His Excellency who, in spite of his numerous occupations, is here to preside the inaugural ceremony of this meeting.

This meeting constitutes an event the scope of which will not escape those interested in questions relating to literary and artistic property.

Without wishing to give all the background of this draft which you are about to study, it should be recalled that, originally, two draft model laws were prepared — one for English-speaking developing countries and the other for French-speaking developing countries — to make allowance for their different legal traditions. It was at the request of representatives from developing countries meeting for a Seminar at Nairobi in October 1972 that the drafting of a single model law valid for all developing countries was undertaken. This new draft was established at Abidjan in October 1973 and you are here to show, by adopting this draft, that the developing countries have become aware of the identification of their problems and of their common interests. But you will above all demonstrate that, during this second decade which has put the accent on training for development by man for man, it is necessary, if it is desired to arrive at the establishment of a new economic order giving priority to the fulfilment of man, not only to promote the transfer of techniques but, above all, to encourage creation, on a national scale, of intellectual works and to ensure a very wide dissemination, beyond territorial frontiers.

It cannot be denied that development, training and education would be vain words without information and

publication, since all study or research implies the consultation and publication of documents.

Education in its true meaning should aim at forming human beings in harmony with their natural environment; consequently, manuals and other works must be created, produced by authors originating from the community for which they are intended and this community must, in exchange, be reflected and recognize itself therein, the writer being the spokesman of his time, the reflection of his fellow-citizens, the witness of a culture.

The developing countries must therefore encourage intellectual creation and, more particularly insofar as the subject of our meeting is concerned, literary and artistic creation, which implies authors and that they be published.

Even if it has been ascertained throughout the centuries that the birth of ideas has never been as flourishing as during centuries of constraint and adversity and that a "painful birth" is often the guarantee of a work of genius, works of value have been handed down to us only because it has always been possible to sidestep the obstacles and difficulties in the way of liberty of expression and the dissemination of works.

The first step in encouraging intellectual creativity is to grant authors the right to claim authorship of their works and exploit them to their advantage, which is the aim of copyright, the organization of which vests — in every country — in adequate legislation.

Developing countries, more than others and especially those with a traditional oral culture, should establish such legislation in order to fix and preserve — while there is still time — the traditional manifestations of their cultures, in order to perpetuate or rediscover them.

The promotion of literary and artistic creation, the encouragement to be lavished on authors, are undoubtedly the basic means of helping developing countries retrieve their national identity, an essential condition to bring about harmonious development adapted to the real needs of each country.

A non-negligible aspect of the encouragement of intellectual creation is the promotion of book industries which should not be neglected because this aspect of the problem has a direct link with copyright.

We should, however, bear in mind the paradoxes of the present situation where national authors are obliged to publish abroad, very often due to lack of national legislation ensuring that they benefit from their copyright privileges, but also due to lack of local means of publication (inexistence of publishing houses or even lack of adequate printing facilities). It should not be forgotten that, if the work exists without publication and if copyright exists by the mere fact of the creation of the work, for the public only published works exist, no dissemination of ideas and culture is possible without publication, and the safeguarding or preservation of the cultural heritage is not possible without fixation.

Thus, the promotion of book industries must be a part of any policy for the promotion of literary and artistic creation and this fact leads us to observe that the organization of the protection of literary and artistic property and, more generally, the protection of intellectual property must form part of the general development policy of a country and the means for assuring it must be provided for in national development plans as are factories, schools or road networks.

Since problems of development and the means of assuring it arise in the same way in all developing countries even if regional contingencies introduce into the process of achieving it widely differing alternatives, it was natural that the developing countries study together, as they have done in other fields, that part of development which is copyright legislation.

As we have already said, the greater the value of an intellectual work the wider should be its dissemination. Moreover, access to works, foreign cultures and techniques is an irrefutable means of progress but must also allow, by the volume of exchange, a wider comprehension between peoples and men. This broad dissemination would carry within it a destructive germ if it assumed the possible denial of the copyright of authors in their works outside their territory of origin; whence the necessity to secure reciprocal protection of these rights in all countries and this is the role of the bilateral and multilateral conventions, in short, the international conventions which ensure a wider field of application of copyright to those party thereto; they contribute to the encouragement to authors but also facilitate access to foreign works. It is the reason why the two international copyright conventions were revised recently to take account of the particular needs of the developing countries.

But although they may have easier access to foreign works, developing countries should not lose sight of the fact that these are a factor of acculturation and the deformation of national identity by proposing foreign models or styles of thought and life; they must be vigilant not to prejudice the interests of national authors who alone are capable of creating and adapting the works or techniques suitable to their specific needs and they must secure them protection at least equal to that of their counterparts in the developed countries.

It occurred to me that it would perhaps be useful to bear in mind these few considerations of the role which intellectual creation plays and the interest of legislation in this field in the development of a country and I should not like to bypass the occasion without reminding you that the International Bureau of the World Intellectual Property Organization which you instituted at the most crucial time of the process of adaptation of international conventions to the needs of developing countries, that is to say, at Stockholm in 1967, has established a special program for cooperation in the development of your countries and, whether it is within the framework of this program or within the framework of the activities carried out jointly with Unesco, it is working from the viewpoint of the establishment of a new international economic order towards the well-being of man, whose most characteristic function, that of intellectual creativity, remains the center of the preoccupations of all of us.

I look forward with all of you to taking advantage of the warm hospitality offered us by the Government of Tunisia in this setting propitious to the elevation of our thoughts.

*Annex No. 5*

#### Telegram

addressed to His Excellency the President  
of the Republic of Tunisia  
on March 2, 1976

The Committee of Governmental Experts which met in Tunis from February 23 to March 2 to prepare a Model Law on Copyright for Developing Countries pays its respects to His Excellency the President of the Republic of Tunisia, and, honored by the audience which His Excellency was kind enough to grant on February 25, 1976, respectfully expresses its gratitude and heartfelt thanks for the interest which His Excellency, himself an author, has personally shown in its work, thus bearing signal witness to the importance that Tunisia has always given to copyright protection both at the national and international level.

Rafik Saïd  
Chairman of the Committee

*Annex No. 6***Resolution**

The Committee of Governmental Experts which met at Tunis from February 23 to March 2, 1976, to prepare a Model Law on Copyright for Developing Countries,

*Expresses* its deep gratitude to the Government of Tunisia for having convened this meeting with the assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO);

*Conveys* its most sincere thanks for the generous hospitality it has received, for the facilities placed at its disposal, for the events organized in order to make the participants' stay in Tunis such an enjoyable one, and also for the trouble taken to ensure the smooth running and success of the meeting.

*Annex No. 7***Message to His Excellency Mr. Mahmoud Messadi,  
Minister for Cultural Affairs**

The Committee of Governmental Experts meeting at Tunis from February 23 to March 2, 1976, to prepare a Model Law on Copyright for Developing Countries,

*Wishes*, before the end of its work, to express its gratitude to His Excellency Mr. Messadi, Minister for Cultural Affairs, for making possible, thanks to his efficient action, the convening of this Committee by the Tunisian Government with the assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), for having honored its opening session with his presence and for the attention he has been kind enough to accord its work.

*Annex No. 8***List of Participants****I. States****BRAZIL**

M. Daniel da Silva Rocha  
Avocat

M. Claudio de Souza Amaral  
Conseiller juridique  
Sociedade Brasileira de Interpretes e Produtores Fonograficos

Mr. Sergio Carrico  
Secretary of Embassy  
Embassy of Brazil, Tunis

**CAMEROON**

M. Jean Marie Abanda-Ndengue  
Directeur adjoint des affaires culturelles  
Ministère de l'information et de la culture

**CENTRAL AFRICAN REPUBLIC**

M. Martin Guiakora  
Directeur des affaires culturelles  
Ministère des affaires étrangères

M. Jérémie Ikoli  
Secrétaire général de la Commission nationale pour l'Unesco

**EGYPT**

Mr. Mohammad Mahdi Allam  
Member of the Academy of the Arabic Language

Mr. Ezzedine Abdalla  
Professeur à la Faculté de droit  
M. Mahmoud Loutfi  
Conseiller juridique de la SACERAU

**GABON**

M. Marc Ngoua  
Premier Secrétaire  
Ambassade du Gabon, Tunis

**GHANA**

Mr. James Duke Essuman  
Registrar-General's Departement  
Administration of Aspects of Copyright Law in Ghana  
Mr. Edmund Brandford Odoi-Anim  
Copyright Administrator  
Ministry of Information

**INDIA**

Mr. Sham Lal Gupta  
Second Secretary  
Embassy of India, Tunis

**IRAN**

M. Ahmad Moghaddam  
Avocat et Conseiller juridique  
Ministère de la culture et des arts  
M. Parviz Porkar  
Expert juridique  
Ministère de la culture et des arts  
M. Saidi-Far Abbas  
Expert juridique  
Ministère de la culture et des arts

**IRAQ**

M. Abdul-Jabbar D. Al-Basri  
Directeur de l'édition  
Ministère de l'information  
Mr. Saieb Majbel Al Sadi  
Director of Legal Affairs  
Ministry of Education

**IVORY COAST**

M. Venance Kacou  
Directeur du Cabinet du Secrétaire d'Etat aux affaires culturelles  
M. Mokodou Thiam  
Directeur de l'Institut national des arts d'Abidjan

**JORDAN**

Mr. Suleiman Mousa  
Cultural Adviser  
Ministry of Culture and Information

**KENYA**

Mr. D. J. Coward  
Registrar-General  
Attorney-General's Department  
M. Georges Straschnov  
Consultant

**KUWAIT**

M. Ahmed Souleimane  
Deuxième Secrétaire d'Ambassade  
Ambassade de Koweit, Tunis

**LIBYAN ARAB REPUBLIC**

M. Khaled Ali Zogbia  
Directeur des arts et des lettres  
Ministère de l'information et de la culture

M. Ali Mohamed Eddali  
 Chef de la Division de la production littéraire, de la  
 traduction et de l'édition  
 Direction générale de la culture  
 Ministère de l'information et de la culture

## MALI

M. Gaoussou Traore  
 Directeur de Cabinet  
 Ministère de la culture

## MAURITANIA

M. Moktar Ould Hemeina  
 Directeur de la culture

## MAURITIUS

Mr. Ariranga Govindasamy Pillay  
 Crown Counsel  
 Ministry of Justice

## MEXICO

Sr. Gabriel E. Larrea Richerand  
 Director General del Derecho de Autor  
 Secretaria de Educación Pública  
 Sr. José María Fernandez Unsaín  
 Presidente  
 Sociedad de Escritores de Ciné, Radio y Televisión  
 Sr. José Luis Caballero  
 Jefe del Departamento Internacional  
 Sociedad de Autores y Compositores de Música  
 Sr. Enrique Lizalde  
 Presidente  
 Asociación Nacional de Intérpretes

## MOROCCO

M. Abderrazak Zerrad  
 Directeur général  
 Bureau marocain du droit d'auteur

## QATAR

Mr. Mubarak Al-Khatat  
 Deputy Director  
 Legal Affairs Department  
 Mr. Mohamed H. Al-Nasr  
 Director  
 National Library

## SENEGAL

M. N'Déné N'Diaye  
 Directeur général  
 Bureau sénégalais du droit d'auteur

## SYRIAN ARAB REPUBLIC

M. Adib Loujami  
 Vice-Ministre de la culture  
 M. Mohamed Farouk Adhami  
 Premier Secrétaire d'Ambassade  
 Ambassade de la République arabe syrienne, Tunis

## TUNISIA

M. Rafik Saïd  
 Directeur de Cabinet  
 M. Abderrahmane Amri  
 Attaché de Cabinet  
 Ministère des affaires culturelles  
 M. Abdelhamid Iassoued  
 Sous-directeur, Ministère des affaires culturelles  
 Secrétaire de la Commission nationale pour l'Unesco  
 M. Abdellaziz Achouri  
 Chef de la Division des lettres  
 Ministère des affaires culturelles

M. Mohamed Ferid Cherif  
 Chef de la Division des institutions spécialisées  
 Ministère des affaires étrangères

M. Mahmoud Ounis  
 Chef du Service juridique et de la coopération inter-  
 nationale

Secrétariat d'Etat à l'information

M. Mohamed El Hammami  
 Procureur de la République

M. Ahmed Maâli  
 Chef de Service  
 Radiodiffusion-Télévision tunisienne

M. Abdel Magib Ben Jeddou  
 Radiodiffusion-Télévision tunisienne  
 Président de la SODACT

## UNITED ARAB EMIRATES

M. Abdul Hadi Bakkar  
 Attaché de presse  
 Ambassade des Emirats arabes unis, Tunis

## UPPER VOLTA

M. Dominique Sisso  
 Directeur des affaires juridiques  
 Ministère des affaires étrangères  
 M. Sibiri Oumar Traore  
 Chef de Service de l'équipement et des centres culturels  
 M. Amadou Seri  
 Conseiller des affaires économiques  
 Chef de Service du contrôle économique

## YUGOSLAVIA

M. Vojislav Spaić  
 Professeur à l'Université de Sarajevo

## ZAIRE

M. Nunga Biabungana  
 Directeur général  
 Société nationale des auteurs, compositeurs et éditeurs  
 M. Ntaki Bayedila  
 Directeur  
 Département de la culture et des arts

## II. Observers

*(a) Palestine Liberation Organization (PLO)*

M. Hakam Balaoui  
 Représentant de l'OLP à Tunis

M. Khalid Ahmed  
 Membre du Secrétariat général  
 Union des écrivains et journalistes de l'OLP

*(b) Intergovernmental Organizations*

**United Nations (UN):** R. Symonds. **African and Malagasy Industrial Property Office (OAMPI):** P. N'Goma. **Joint Afro-Mauritian Organization (OCAM):** P. N'Goma. **Arab Educational, Cultural and Scientific Organization (ALECSO):** M. Moussa.

*(c) International Non-Governmental Organizations*

**European Broadcasting Union (EBU):** G. Straschnov. **International Association of Art (IAA):** H. Turki. **International Bureau of the Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** J.-A. Ziegler. **International Confederation of Professional and Intellectual Workers (CITI):** M. Baccar. **International Confederation of Societies of Authors and Composers (CISAC):** J.-A. Ziegler;

D. de Freitas. **Internationale Gesellschaft für Urheberrecht (INTERGU) (International Copyright Society):** G. Halla. **International Federation of Film Distributors' Associations (FIAD):** G. Grégoire. **International Federation of Film Producers Associations (FIAPF):** M. Ferrara Santamaria. **International Federation of Producers of Phonograms and Videograms (IFPI):** V. Dolezil; P. Chesnais. **International Federation of Translators (FIT):** P. F. Caillé. **International Film and Television Council (IFTC):** R. Fernay; P. Chesnais; G. Grégoire. **International Literary and Artistic Association (ALAI):** R. Fernay; J.-A. Ziegler. **International Music Council (IMC):** S. El Mahdi. **International Publishers Association (IPA):** J. A. Koutchoumow. **International Writers Guild (IWG):** R. Fernay. **Union of National Radio and Television Organizations of Africa (URTNA):** A. Marzouki.

(d) *Other Organizations*

**Tunisian National Organizations:** *Société des auteurs et compositeurs de Tunisie:* S. Zarrouk; H. Jouini. *Union des écrivains tunisiens:* B. Ben Slama; A. Kacem.

### III. Secretariat

**World Intellectual Property Organization (WIPO):**

A. Bogsch (*Director General*); K.-L. Liguier-Laubhouet (Mrs.) (*Deputy Director General*); C. Masouyé (*Director, Copyright and Public Information Department*).

**United Nations Educational, Scientific and Cultural Organization (UNESCO):**

J. Rigaud (*Assistant Director-General for Administration, representing the Director-General*); C. Lussier (*Director, Office of International Standards and Legal Affairs*); M.-C. Dock (Miss) (*Director, Copyright Division*); D. de San (*Lawyer, Copyright Division*).

### IV. Officers

*Chairman:* R. Saïd (Tunisia). *Vice-Chairmen:* A. Moghadam (Iran); G. E. Larrea Richerand (Mexico). *Rapporteur:* J. D. Essuman (Ghana). *Secretaries:* M.-C. Dock (Miss) (UNESCO); C. Masouyé (WIPO).

## Conventions Administered by WIPO

### Vienna Agreement for the Protection of Type Faces and their International Deposit

#### FRANCE

#### Ratification of the Agreement and the Protocol Concerning the Term of Protection

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of the States which, according to Article 33(1), may become party to the Vienna Agreement for the Protection of Type Faces and their International Deposit that the Government of the French Republic deposited, on May 17, 1976, its instruments of ratification of the said Agreement and of the Protocol Concerning the Term of Protection.

The instrument of ratification of the said Agreement contains the following declarations:

“1. In accordance with Article 34 of the Agreement, France declares that it intends to ensure the protection of type faces both by its national provisions on industrial designs and by those on copyright. As regards protection by its national copyright provisions, it intends to assimilate creators of type faces who have their habitual residence or domicile in a Contracting State to creators of type faces who are nationals of that State.

2. France declares that it is not bound by the provisions of Article 30(1) of the Agreement.

3. Referring to Article 33(3) of the Agreement, France declares that the said Agreement is applicable to the entire territory of the French Republic, including the overseas departments and territories.” (*Translation*)

The instrument of ratification of the said Protocol contains the following declarations:

“1. France declares that it is not bound by the provisions of Article 30(1) of the Agreement.

2. Referring to Article 33(3) of the Agreement, France declares that the Protocol is applicable to the entire territory of the French Republic, including the overseas departments and territories.” (*Translation*)

The date of entry into force of the said Agreement and of the said Protocol will be notified when the required number of ratifications or accessions is reached.

Vienna (Type Faces) Notification No. 2, of May 21, 1976.

## Bilateral Agreements

BULGARIA—U. S. S. R.

### Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of Bulgaria on the reciprocal protection of copyrights

The Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of Bulgaria,

Guided by the desire to further extend their cooperation in the reciprocal exchange of cultural values through the utilization of scientific, literary and artistic works,

Recognizing the necessity of defining the procedure and conditions for reciprocal protection of copyrights,

Basing themselves on the experience gained in implementing the Agreement on the Reciprocal Protection of Copyrights concluded between the Union of Soviet Socialist Republics and the People's Republic of Bulgaria on October 8, 1971,

Have decided to conclude this Agreement and, to that end, have appointed as their Plenipotentiaries:

— for the Government of the Union of Soviet Socialist Republics — Boris Dmitrievich Pan-kin, Chairman of the Board of the Copyright Agency of the USSR,

— for the Government of the People's Republic of Bulgaria — Krum Vasilev, Chairman of the Press Committee attached to the Council of Ministers of the People's Republic of Bulgaria, who, having exchanged their full powers, which were recognized as in due and good form, have agreed as follows:

#### Article 1

Each Contracting Party shall:

- (a) encourage the dissemination and, in particular, the publication of scientific, literary and artistic works created by citizens of the other Contracting Party;
- (b) encourage theaters, orchestras, musical ensembles and soloists in its country to include in their repertoires dramatic, dramatico-musical, musical and choreographic works and entertainments in dumb show created by citizens of the other Contracting Party.

#### Article 2

Each Contracting Party shall recognize the copyrights of the citizens of the other Contracting Party and their successors in title in scientific, literary and artistic works, regardless of the place in which they were first made public, and shall ensure the protection of those rights in its territory under the same conditions as those laid down in its legislation in respect of its own citizens.

#### Article 3

The copyrights shall be protected for the period laid down by the internal legislation of each of the Contracting Parties; however, no Contracting Party shall be obliged to ensure such protection for a period longer than that laid down in the legislation of the other Contracting Party.

#### Article 4

Taxes on royalties accruing to authors under this Agreement shall be levied only in the country where the author has his permanent residence.

#### Article 5

Copyright royalties shall be settled in the currency of the State in whose territory the work has been used and in accordance with the procedure laid down for the settlement of non-commercial payments.

#### Article 6

The practical implementation of this Agreement shall be the responsibility of the competent organizations of the Contracting Parties to which the task of protecting copyrights has been entrusted. The said organizations shall conclude a working agreement on the procedure for the practical implementation of this Agreement, defining the procedure for granting rights to the use of the works protected under this Agreement and for providing assistance to authors and

their successors in title in the protection of their copyrights, the system for the mutual settlement of accounts and the procedure for the payment of royalties accruing to authors, as well as any other questions arising from implementation of this Agreement.

#### Article 7

The Contracting Parties mutually agree to respect and strictly observe the legislation in force in the Union of Soviet Socialist Republics and the People's Republic of Bulgaria relating to the procedure for practical implementation of this Agreement.

#### Article 8

This Agreement shall be applicable, as from its entry into force, to the use of works mentioned in Article 2 in respect of which the periods specified in Article 3 have not expired at the moment of use.

#### Article 9

This Agreement shall not affect the rights and obligations of the Contracting Parties under other international agreements.

#### Article 10

This Agreement may be amended and supplemented by agreement between the two Contracting Parties at the proposal of either.

#### Article 11

This Agreement shall enter into force on January 1, 1975, and remain valid for three years.

The validity of the Agreement shall be extended automatically every time for three years if neither of the Contracting Parties has announced its decision to terminate the Agreement not later than six months before the expiry of the corresponding three-year period.

Done at Moscow on the sixteenth day of January 1975, in two copies, each in Russian and Bulgarian, both texts being equally authentic.

On behalf of the  
Government of the  
Union of Soviet  
Socialist Republics

B. PANKIN

On behalf of the  
Government of the  
People's Republic  
of Bulgaria

K. VASILEV

**General Studies**

**Copyright and the Future of Authorship**

Barbara RINGER \*







## Calendar

### WIPO Meetings

#### 1976

- June 28 to July 2 (Geneva) — International Classification of the Figurative Elements of Marks — Provisional Committee of Experts**
- September 6 to 10 (Geneva) — Paris and Madrid Unions — Working Group for the Computerization of Trademark Operations**
- September 6 to 17 (Washington) — International Patent Classification (IPC) — Working Group III**
- September 21 to 24 (Geneva) — ICIREPAT — Plenary Committee (PLC)**
- September 27 to October 5 (Geneva) — WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union — Ordinary Sessions**
- September 27 to October 8 (Rijswijk) — International Patent Classification (IPC) — Working Group II**
- October 11 to 18 (Geneva) — International Patent Classification (IPC) — Steering Committee**
- October 13 to 21 (Geneva) — Nice Union — Temporary Working Group**
- October 18 to 22 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)**
- October 19 to 22 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- October 25 to 29 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)**
- November 1 to 8 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees**
- November 8 to 19 (Stockholm) — International Patent Classification (IPC) — Working Group IV**
- November 23 to 30 (Geneva) — Paris Union — Preparatory Intergovernmental Committee on the Revision of the Paris Convention**
- November 29 to December 3 (Geneva) — Permanent Legal-Technical Program — Working Group on the Model Law for Developing Countries on Inventions and Know-How**
- November 29 to December 10 (Rijswijk) — International Patent Classification (IPC) — Working Group I**
- December 8 to 17 (Paris) — Berne Union — Committee of Governmental Experts on the Double Taxation of Copyright Royalties**  
*Note: Meeting convened jointly with Unesco*
- December 13 to 17 (Geneva) — Nice Union — Committee of Experts**

#### 1977

- February 21 to 24 (Colombo) — Permanent Legal-Technical Program — World Symposium on the Importance of the Patent System to Developing Countries**
- March 14 to 18 (Geneva) — Permanent Legal-Technical Program — Permanent Committee (4th Session)**
- September 26 to October 4 (Geneva) — WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assemblies of the Madrid and Hague Unions; Conference of Representatives of the Hague Union; Committee of Directors of the Madrid Union**
- November 28 to December 5 (Paris) — Berne Union — Executive Committee — Extraordinary Session**
- December 6 to 8 (Geneva) — International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations — Intergovernmental Committee — Ordinary Session (organized jointly with ILO and Unesco)**

## UPOV Meetings in 1976

**Council:** October 13 to 15

**Consultative Committee:** October 12 and 15

**Technical Steering Committee:** November 17 to 19

**Committee of Experts on International Cooperation in Examination:** November 16

**Committee of Experts on the Interpretation and Revision of the Convention:** September 14 to 17

*Note:* All these meetings will take place in Geneva at the headquarters of UPOV

**Technical Working Party for Forest Trees:** August 17 to 19 (Humlebak - Denmark)

**Technical Working Party for Vegetables:** September 21 to 23 (Cambridge - United Kingdom)

## Meetings of Other International Organizations concerned with Intellectual Property

### 1976

**July 5 to 9 (Bellagio) — International Broadcast Institute — Conference**

**August 30 to September 3 (Stockholm) — International Federation of Musicians — Congress**

**September 6 to 10 (Budapest) — Hungarian Group of AIPPI and Hungarian Association for the Protection of Industrial Property — Conference on the Significance of Protection of Industrial Property in International Industrial Cooperation**

**September 13 to 17 (Vienna) — International Federation of Actors — Congress**

**September 26 to October 2 (Montreux) — International Association for the Protection of Industrial Property — Executive Committee**

**September 27 to October 1 (Paris) — International Confederation of Societies of Authors and Composers — Congress**

**October 11 to 16 (Varna) — International Writers Guild — Congress**

### 1977

**January 14 (Paris) — International Literary and Artistic Association — Executive Committee and General Assembly**

**January 17 to 21 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television**

**November 28 to December 5 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Intergovernmental Copyright Committee established by the Universal Copyright Convention (as revised at Paris in 1971)**