

Published monthly
Annual subscription:
Sw.fr. 100.—
Each monthly issue:
Sw.fr. 10.—

Copyright

14th year - No. 11
November 1978

Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

	Page
WORLD INTELLECTUAL PROPERTY ORGANIZATION	
— Opening of the New Headquarters Building of WIPO	339
— WIPO Symposium for Training in Copyright and Neighboring Rights (Geneva, October 9 to 13, 1978)	345
BERNE UNION	
— Portugal. Accession to the Paris Act (1971) of the Berne Convention	346
CONVENTIONS ADMINISTERED BY WIPO	
— International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations Subcommittee of the Intergovernmental Committee on Television by Cable (Geneva, July 6, 1978, and Paris, September 18, 1978)	347
LAW SURVEY	
— Liechtenstein, Luxembourg, Malawi, Malta, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland	353
GENERAL STUDIES	
— The Author's Place in Society and Legal Relations between Authors and those Responsible for Distributing their Works (Herman Cohen Jehoram)	385
CALENDAR OF MEETINGS	394

© WIPO 1978

Any reproduction of official notes or reports, articles and translations of laws or agreements, published in this review, is authorized only with the prior consent of WIPO.

World Intellectual Property Organization

Opening of the New Headquarters Building of the World Intellectual Property Organization (WIPO)

The construction of the new headquarters building of WIPO was completed in May 1978. The staff move into the new building took place in May and June 1978 and the building was inaugurated on September 11, 1978, in a ceremony to which were invited officials of the Government of Switzerland, the Canton of Geneva and the City of Geneva, the ambassadors, heads of the permanent missions of the various States accredited in Geneva, and a number of special guests.

A further dedication ceremony took place on September 24, 1978, at which the main invitees were the delegations of the various States and the international intergovernmental and non-governmental organizations accredited to the annual meetings of some of the Governing Bodies of WIPO and Unions administered by WIPO.

Large excerpts are given below from the speeches made on the occasion of one or both of those ceremonies since much of the history of the construction of the new headquarters building and much information on the building itself can be learnt from them.

The building was described, at both ceremonies, by its architect, Pierre Braillard of Geneva, in the following terms:

Building is a long adventure.

Transposing ideas from paper to reality, reconciling the technical and the aesthetic, respecting the timetable of the client and staying within his budget are so many stumbling blocks to be overcome.

A building like the one we are inaugurating today is the result of a long series of mutations and controversies and a constant search for improvement.

That is why, having been asked to explain to you the reasoning behind the approach adopted, I have to begin by asking you to be indulgent in your criticism, and not to voice it without first having investigated the essentials of the problem that had to be solved.

The responsibility of building a tower on the *Place des Nations* was one of which I was conscious from the very outset. I had no right to make a mistake, and I could not content myself with a facade treatment of questionable sophistication, which is all too often the fashion.

I looked for a construction that was both sober and dignified and yet light and above all animated, alive.

The gently curving shape of the tower's vertical plane offered possibilities of variations in the quality and intensity of light effects at different hours of the day.

And then the light had to be actually brought into play. I therefore chose this reflecting sky-blue glass which I had seen used in America.

The monolithic block of sapphire-blue crystal, inside which the protection of all forms of human thought would be worked out, was designed.

But it had yet to be built. All my efforts were then concentrated on making the metal parts so small that only a fine silver network was left, which hardly encroached on

the architecture at all. And, to reduce them even further, I divided the aluminium supports with a black line.

A running battle was carried on with the building contractor to keep to the minimum dimensions, especially since provision had to be made for resistance to wind, expansion and contraction. And of course the flooring slabs at each level had to be supported. Behind each of the supports that can be seen from the outside there is a solid steel pillar which is designed not only to support the building but also to carry an inner wall if required.

In order to produce the block effect, the same tones had to be used for the transparent parts of the windows and for the opaque parts underneath, behind which are the floors and the air conditioning. This problem also was solved satisfactorily. Finally, on either side of the tower, a solid wall, necessary for the equilibrium of the building, is faced with granite in order to emphasize by contrast the lightness of the glass.

The blue reflecting glass, which is still relatively little known in Europe, was specially made for the building under the factory's first contract of this kind. It reduces the cost of air conditioning by retaining indoor heat in winter; it eliminates the need for outside blinds, which are unsightly, costly and too sensitive to the wind at such heights. By reflecting trees, sky and clouds, it gives an impression of lightness and transparency and avoids the massive appearance of a solid construction.

The main conference room, in which you are sitting now, is the hub of the Organization, the focal point of all the member countries; it is placed at the foot of the tower, shaped to the protective curve like a jewel set in a ring.

The stretch of water seen from inside at the foot of the windows cascades over to form a glittering silver base on three sides, falling into a pool below and providing a pleasant sound in the background to drown the noise of passing traffic.

The interior is generously illuminated by the wall-to-wall glazing along the whole of one side, in the shade of century-old oaks. The decor has been intentionally kept sober. Artificial lighting is provided by an illuminated ceiling decorated with champagne-colored glass panels made by hand in Venice.

The upper floors are made to a standard design which affords freedom and flexibility, allowing office space to be redistributed according to present and future requirements, being fitted with movable partitions that can be installed and removed without difficulty.

So much for functional considerations.

But man needs more than just a cell to work in. In the common rooms, in the entrances, corridors, hall and restaurant, there must be human elements to which the senses can respond; there must be gaiety, color and an element of the unexpected.

That is why I endeavored to give the building a kinder aspect with the use of wood, marble, water and light, not superimposed by way of decoration but integrated in the structure and architecture of the building.

Even though here and there we have given preference to the use of noble materials, the overall effect is modest indeed when one considers the number of years during which it will be expected to meet your requirements, and still more modest in relation to the rich heritage left by our predecessors in the world, who did not have our technology at their disposal.

The entrance hall was designed on two levels, its ceiling heightened by a cupola to give it more importance. I selected this as the place for a large wall-fountain designed to symbolize the creative power of the human intellect. At the top there is the arid whiteness of the nebulae, before the world was created. There is as yet no life. Then water appears and land and rocks are revealed, whereupon plant and animal life emerge from the void. Water, with its sweet music and latent power, the very source of life, runs down into the basin below, and out of this basin comes a long ribbon whose five bands represent the five continents, in the colors of all the countries of the world. It symbolizes the beginnings of human thought and its development in the course of the millenia, broadening into golden ages and narrowing into dark ages, winding and weaving under the effect of mutations and intuitions, hesitations, impulses and discoveries, driven by the constant urge to control the elements, and ending with the creation of nuclear energy represented by the sun.

The variety and quality of the marble, and above all its execution by Roman marble-masons, make this a masterpiece for which a new color-blending technique was devised in order to interpret my thoughts and my design to perfection.

The fact of opening up the first floor above the entrance hall called for the provision of a balustrade, but, in order to avoid a heavy overall effect, I wanted it to be light and almost invisible, which accounts for its informal design.

A work such as this cannot be created single-handed. I was given invaluable assistance by my immediate collaborators: Mr. Vural Özbora in the design workshop, who also played a leading part at the time of the competition, and Mr. Mario Curti on the site, who was the mainspring of the project, ever-present, exacting, precise and far-sighted.

I should also like to stress the decisive part played by Dr. Arpad Bogsch, the Director General, who, with his grasp of essentials, his decisions, his optimism, his choices and his rapid understanding of problems, greatly facilitated my work. The confidence he showed in me under all circumstances was a genuine encouragement.

The work is now complete; it no longer belongs to its author. Whether beautiful or ugly, it cannot now be changed for it has become part of the heritage of Geneva.

I leave you to inspect it, criticize it or admire it, in the hope that you will find it to your taste.

Dr. Arpad Bogsch, Director General of WIPO, said the following, among other things, at the inauguration ceremony:

I wish to express the most sincere gratitude of the World Intellectual Property Organization to the government authorities of Switzerland — federal, cantonal and municipal — and to the Property Foundation for International Organizations (FIPOI). The ground on which this new building has been erected belongs to Geneva; Geneva has leased it to the World Organization. The necessary funds for its construction were advanced to the World Organization by the Swiss Confederation through a civil law foundation, the FIPOI, set up by the Confederation and the Republic and Canton of Geneva.

The Foundation is directed and supervised by senior federal and cantonal officials. The conditions under which the Foundation has granted a loan to the World Organization are extremely favorable and, indeed, without such conditions, it would have been practically impossible to envisage the construction of a new building under the ownership of the World Organization.

Reimbursement of the loan will extend over a period of 40 years. Since the repayments will be effected, to a large extent, by the Member States, I feel that I may also on their behalf express our heartfelt gratitude to the Swiss Confederation and to Geneva.

The support given to the project by both Switzerland and Geneva has once more demonstrated their will and their capacity to assist the organizations within the United Nations system. What can I say that the World Organization gives in exchange, apart from its gratitude? Two things at least. One is that, being more than ever attached to Geneva through its new building, the World Organization will remain faithful to Switzerland and to Geneva and has no intention whatsoever of moving its headquarters elsewhere. The other is that in erecting this new building, which it hopes is an aesthetic success, the Organization would be happy to think that it had contributed to the embellishment of Geneva and, more particularly, of the *Place des Nations*.

I should also like to express the thanks of the International Bureau of WIPO to the Member States. It is they who decided to construct this building. I hope they will find it a pleasant setting for their meetings. We have endeavored to make the conference rooms and other facilities used by the Member States' delegates particularly well-adapted and comfortable.

My thanks go also to the architect, to his staff, to all the firms and their engineers, technicians and workmen who have participated in the construction of the building. It is the result of their imagination and hard work.

Finally, permit me to express my thanks to those of my colleagues who bore special responsibility in relation to the construction. There are too many of them to mention them all, but I should first like to mention three of them: Mr. Manuel Pereyra, the Director of our Administrative Division; Mr. Behrouz Davoudi, Head of our Buildings Section, and Mr. René Gattone, Mr. Davoudi's principal assistant. Their task has been a difficult one since we had no experience, of course, of constructing a building, particularly one of 19 stories. In spite of that, they learnt, and learnt quickly, to visualize our needs, to foresee the smallest detail of execution and to limit the costs; all of which they did in liaison with the architect. Such was also the task of a Committee which supervised the construction and which also included Mr. Jean Chalut, an architect occupying a

high position in the Geneva administration and who had been delegated by FIPOI as a consultant, and Mr. Claude Masouyé, Director of our Copyright and Public Information Department. All these people had great responsibilities. Their devotion and patience have been exemplary and their share in the final result has been decisive. I thank them most heartily.

Your Excellencies, Ladies and Gentlemen, allow me to finish by voicing the hope that this new building will bear the fruit expected of it: a practical and pleasant environment for the work of both our delegates, who are the representatives of the States, and the staff of the International Bureau. May this environment and this building contribute to a more rapid and more effective achievement of the World Organization's aims: the protection of the rights of intellectual creators and the progress of the developing countries.

Mr. Pierre Aubert, Federal Councillor, Head of the Federal Political Department, said the following words at the inauguration ceremony, before cutting the symbolic ribbon officially opening the new building:

I have the honor and the pleasure to convey to you the congratulations and best wishes of the Federal Council.

The building we are to inaugurate demonstrates the importance assumed by the World Intellectual Property Organization under the stimulus of its Director General and also as a result of the will of the States to maintain and develop international cooperation.

Although WIPO is in fact one of the most recent specialized agencies — having entered the United Nations system on December 17, 1974 — its history is long and rich.

A good deal of ground has been covered from the time of the modest United International Bureaux in Berne, set up in 1893, under the administrative and financial supervision of the Swiss Government, for the purpose of promoting and ensuring compliance with the 1883 Paris Convention for the Protection of Industrial Property and the 1886 Berne Convention for the Protection of Literary and Artistic Works — binding only some ten States at that time — to the ultramodern building which now houses an international organization approaching something like universality! Was not such a development foreseeable and desirable in an institution whose prime task was to defend "intellectual property," that is to say, intangible goods which, by their very nature, escape national frontiers and which, in the words of Albert Camus, are the recognition of the infeasible rights of man's creative genius expressed through ideas, sounds, shapes, inventions, articles of trade, and the like.

These rights were not recognized without trouble. Is it necessary to recall the tribulations of a certain Balzac or of many unfortunate inventors? The 19th century afforded protection to the fruits of intellectual work, without which no scientific or technical progress is possible. In so doing, it enabled that progress to be disseminated in a spirit of freedom which, in turn, has stimulated research.

Despite the modesty of its beginnings, BIRPI rapidly acquired an enviable and well-deserved reputation on account of its hard work and efficiency. Its field of activity was not long in expanding considerably to cover, amongst other things, patents and licenses. It now concerns the whole of the international community. Thus WIPO plays an increasing part in matters connected with the economic growth of the developing countries. To give but one instance, your Organization deals with the complex and sensitive questions raised by technology transfer to the developing countries, where these relate to industrial property.

The new WIPO building likewise illustrates the importance of Geneva within the United Nations system and as a center of international life. Within this city there has grown up a unique concentration of international institutions, both intergovernmental and non-governmental. It is thanks to these institutions and to the men who work in them that a network of human and professional relations so advantageous to the development of international cooperation has been established in Geneva. Certainly, the international organizations, just like the States, are currently in a much more difficult financial situation than during the preceding decades, but I can assure you that the interest my country takes in these organizations, which it regards as the symbol of international cooperation, has not changed. Moreover, the Confederation has been constantly supported in its efforts by the Republic and Canton of Geneva, which, I am happy to emphasize here, has made available the site on which WIPO has erected its new building.

It is needless, of course, to remind you of Switzerland's long tradition of hosting international organizations and conferences, which we do not intend to abandon. The Property Foundation for International Organizations was established by the Confederation and the Canton of Geneva in 1965 with the aim of facilitating the work of the international organizations and of financing the construction of headquarters buildings — as you know, WIPO has also enjoyed the support of FIPOI in this way.

I should like to take this opportunity to emphasize the Federal Council's firm intent to continue this policy and to promote, in so far as it is able, the harmonious development of the international institutions established on Swiss soil.

To close, may I express my own very best wishes, together with those of the Federal Council, for the felicitous development of WIPO's activities, for the success of its Director General and of all those who participate in this great work of international cooperation, and for the prosperity of the Member States of WIPO.

Mr. Willy Donzé, President of the Council of State of the Republic and Canton of Geneva, made the following speech at the inauguration ceremony:

It is a great honor and a great pleasure for me to act as the spokesman for the Geneva Government on this happy occasion in bringing to you our best wishes for health and prosperity.

As President of the Government, I have had occasion this year to participate in numerous events organized by the international organizations, both governmental and non-governmental. Each time it has been an opportunity for me to say how important and profitable the work of these organizations is and what a guarantee of progress for the whole of mankind.

Sometimes, the results can be clearly recognized. In other cases, unfortunately, their work is more obscure and its effectiveness is not immediately apparent.

However that may be, the Geneva community is attached to these institutions and I should like here to reaffirm that point.

These international activities which have their seat in our city are an integral part of the life of the Canton and contribute to its development and its renown. They constitute, together with a number of essentially Genevan institutions, with our tradition of hospitality, with the International Committee of the Red Cross, and many others, that special something that makes a modest community of a little over 300,000 souls a world center and a focal point of public and private events. We consider this factor to be eminently positive and the natural complement of our deep

attachment to our own roots and traditions. We thus link Geneva's past with its future, and join the provincial to the cosmopolitan.

Although based on legal instruments drawn up and ratified during the last century, WIPO as such is a fairly recent creation and its entry into the concert of specialized agencies is even closer. But it is in the fields in which it works that this institution is brought so close to man for it is the very expression of what every man feels in his secret hopes. Through a complex technical organization, WIPO facilitates the conception and management of all that man creates, of all that man invents. This will to innovate is the most enriching, the most noble aspect of human activity.

That an international organization should be devoted to defending, to protecting, the product of man's intellectual activity, his ingeniousness, his capability of innovating, of transforming, of using his imagination to perfect ever more the quality of this life that is man's lot, that is indeed gratifying.

The fact that to bear witness to its activity WIPO should construct an original work of architecture of such interest can but increase our gratitude.

This most handsome building, erected within the framework of the Property Foundation for International Organizations, is indeed a remarkable addition to the *Place des Nations*, whose architectural character as a whole it considerably enhanced.

As the representative of the population living each day in this environment and taking pleasure in viewing its architectural heritage, we should like to congratulate the architect. We would also mention that the decorations come from a large number of countries throughout the world.

Our thanks, therefore, to the World Intellectual Property Organization for this addition to our community life and our congratulations, once again, to all the international organizations, to whom we wish a good and pleasant journey along with us.

Mr. Luigi Cottafavi, Director-General of the United Nations Office at Geneva, speaking on behalf of Mr. Kurt Waldheim, Secretary-General of the United Nations, said the following among other things:

You may not know that, towards the middle of August, Mr. Waldheim and I made a prior visit to this building, accompanied by the "master of the house"; I am therefore familiar with my subject. The Secretary-General expressed his sentiments and impressions to the Director General and staff in the course of that visit, so all I can do is repeat what he said, which in fact is what he asked me to do, namely, convey to you his satisfaction with this achievement within the United Nations family; the WIPO building brings us something new, something that fits very well into the general framework of the organizations and the city. He also hopes that in this way the work of WIPO will proceed as efficiently as before, if not more efficiently, since environment does play a part in one's everyday work. As Director-General here in Geneva, I should add that I am delighted with the achievement of this remarkable feat of organization in our family; it is the result of an accumulation of efforts which began long before my arrival here, but of which I am happy to witness the completion. I have to pay tribute above all to the determination — political determination, so to speak — to bring about the creation of this building, a tribute therefore to my friend Dr. Arpad Bogsch, who followed his predecessor in this task. I also have to congratulate the architect for what he has done, and also the federal authorities for their financial support which made it possible for this result to be achieved; it was not easy!

I have visited the whole building, and I must say that I was struck by the quality and taste embodied in it. You will all certainly remember that Pericles said when he was in charge — and the Greeks, as you know, are extraordinary in the field of architecture — that an assembly hall or a building intended for meetings should be designed above all to permit concentration within the assembly rather than to divert attention by its surroundings. You have a perfect example here, for you are seated in an assembly hall surrounded by sunshine, by blues, by greens, by a pervading lightness, and yet, for all that, the room is so designed that one does not feel the need to escape: one feels comfortable; the lighting is excellent, and I should like to think that the light coming from above, through glass which, after much thought, was chosen in a champagne color, will put some sparkle into the ideas of those who take their seats in this room. The various floors, the offices and the combinations of colors are also very pleasing.

Dr. h. c. Albrecht Krieger, Director General, Federal Ministry of Justice, Federal Republic of Germany, spoke at both ceremonies in his capacity of Chairman of the Headquarters Building Subcommittee established by the General Assembly of WIPO. At the inauguration ceremony he said the following among other things:

I would like to take the opportunity to congratulate all who have contributed to this achievement, especially the Organization's distinguished Director General, Dr. Bogsch. It was only a few years ago that the late Director, Professor Secrétan, succeeded in having BIRPI moved from Berne to Geneva. For this wise decision he must be given great credit because this removal really paved the way for the expansion of WIPO. On this basis, Professor Bodenhausen, the immediate predecessor of the present Director General, Dr. Bogsch, greatly contributed, through his active leadership and his dedication to the protection of intellectual property, to the growth of the Organization. During his time of office — as Dr. Bogsch has already mentioned — the decision to construct the new building was taken, and the success we are celebrating today is largely due to the untiring efforts of Professor Bodenhausen, assisted by the valuable advice and work of his two Deputy Directors General, Dr. Bogsch and Professor Voyame; and, at this point, may I add that it is a very great pleasure for me personally to see you here, Professor Voyame, in this festive assembly.

The present importance of WIPO, however, has mainly been achieved under the directorship of Dr. Bogsch over the last five years. It is chiefly as a result of his successful endeavors and initiatives to improve the protection of intellectual property and to promote it throughout the world that WIPO now needs this new headquarters building. His indefatigable energy gave the development of WIPO its momentum and represents, if I may say so, the cornerstone of the efficiency, creativity and worldwide importance of this Organization, to which, as I have just been informed, 101 Member States now belong.

As Chairman of the Headquarters Building Subcommittee which was set up in 1969, I have closely and intently watched the construction of this building right from the first blueprint up to its final completion. It was, if I may say so, a real hurdle-race against time, rising costs and other financial complications. In this respect, the Member States of WIPO are in particular deeply grateful to the Swiss Government for having so generously advanced the funds needed.

When in 1970 a group of experts was formed from among the members of the Building Subcommittee in connection with the architect's competition for the construction

of a new headquarters building, the members of that group took the responsibilities conferred upon them very seriously. It may be interesting to recall that it was quite a bare majority which, after long and heated discussions, decided in favor of the project called "Arc" designed by the Geneva architect Pierre Brillard. The group had to choose a project which did not exceed the financial limits envisaged and which was designed, on the one hand, to ensure that WIPO was adequately and suitably equipped and represented and, on the other hand, to make it clear that WIPO, notwithstanding its exposed position on the *Place des Nations*, was only one among 14 specialized agencies of the UN system. The choice of the group of experts was approved by the Building Subcommittee itself by a considerable majority of eight to one votes, and then unanimously by the Coordination Committee of the Organization. The Geneva authorities approved it on the sole condition that the front of the building be turned to face the *Avenue Motta*, thus avoiding an undue dominance of the building over the *Place des Nations*.

Certainly, a construction of this size and character will meet with criticism here and there; I am convinced, nevertheless, that the decision in favor of the project "Arc" was right. The building in my view is a true symbol of how important the protection of intellectual property is for the large family of States in all regions of the world which form this international Organization. With its beautiful, clearcut

outlines, it fits well into its distinguished surroundings, and I hope that — as it stands — it will convince even those who, at earlier stages of the planning and construction, opposed this solution and those who maybe even now still do so.

For the staff of WIPO, I do hope that the new premises will create adequate working conditions which will serve the admirably high level of efficiency of WIPO and will enable the Organization to face even greater challenges and objectives in the years to come

I am convinced that the new building will help WIPO to fulfill its highly important and growing tasks within the framework of multilateral cooperation. For those tasks, which will reach far beyond the coming decades and will have a great impact on international relations in the fields of law and economics, I wish the distinguished Director General and his hard-working staff all the best, good luck and every success in this new building. Their work will be vital for the promotion of the protection of intellectual property throughout the world. The new building, however, also reminds States that such protection is important in the interests of technical progress and the social life of mankind, which is essentially based on science, education, literature and art. This importance, in my view, could not be expressed more ingeniously than by the words the Director General, Dr. Bogsch, has had engraved on the cupola of the entrance hall:

“NASCUNTUR AB HUMANO INGENIO OMNIA ARTIS INVENTORUMQUE OPERA
— QUAE OPERA DIGNAM HOMINIBUS VITAM SAEPIUNT — REIPUBLICAE
STUDIO PERSPICIENDUM EST ARTES INVENTAQUE TUTARI ”

“HUMAN GENIUS IS THE SOURCE OF ALL WORKS OF ART AND INVENTION.
THESE WORKS ARE THE GUARANTEE OF A LIFE WORTHY OF MEN. IT IS THE
DUTY OF THE STATE TO ENSURE WITH DILIGENCE THE PROTECTION OF THE
ARTS AND INVENTIONS ”

Mr. Alvaro Gurgel de Alencar, Under-Secretary for International Economic and Technical Cooperation, *Secretaria de Planejamento da Presidencia da Republica* of Brazil, speaking on the occasion of the dedication ceremony in his capacity of Chairman (1976-1979) of the General Assembly of WIPO, said the following, among other things:

As current Chairman of the General Assembly of this Organization, I consider myself fortunate to have been in office at the time the inauguration happened to take place, giving me therefore the opportunity of being here today. I wish to thank you, Mr. Director General, for the kind invitation you have extended to me to speak at this festive gathering.

I am sure that I speak for all Members of WIPO in congratulating you, Mr. Director General, as well as all those who cooperated with you, on the completion and inauguration of this magnificent building. Even those of us who were not directly involved in this formidable endeavor are fully aware of the amount of energy, steadfastness and devotion required to bring us to this happy moment of the inauguration.

Now the time has come for praise and congratulations, and also for expressing thanks. Thanks to all who cooperated with you, Mr. Director General, and particularly from the standpoint of the General Assembly, I believe, thanks to those who sat on the Building Subcommittee, under Dr. Albrecht Krieger's chairmanship, and gave their valuable time to assisting, advising and taking decisions on behalf of the Coordination Committee, and in fact on behalf of all of us, on matters affecting the construction.

In short, for occasions such as this, perhaps nothing can be more expressive than the brief English words: "Well done!" But maybe I should go one step further and say: "Beautifully done!" Nevertheless, I would like to be permitted to dwell a bit longer on the meaning of this inauguration.

It is a characteristic of administrations in general that they should be best remembered by their visible achievements. A magnificent functional building such as this one would certainly be enough for any administrator to be remembered by. But I feel that this inauguration should be viewed alongside other achievements of the current administration of WIPO which, though perhaps less striking in appearance, are of comparable importance. I have in mind the

relentless efforts made by the Director General, Dr. Arpad Bogoch, to make WIPO a truly universal organization, in terms of both membership and scope of interests. And here I must say how happy I am that we have with us today Professor Bodenhausen, under whose administration this move towards a complete universalization of WIPO first began.

The international community of nations seems to have come to realize that, for the peaceful advancement of mankind as a whole, there is little hope outside a concerted effort to bring about the necessary conditions for the economic and social development of the developing countries. It is to the Director General's credit that he correctly interpreted the wishes of the developing countries, as expressed at WIPO meetings and unanimously supported by its membership, to put the expertise commanded by this Organization in its field of competence at the service of the development needs of those countries. But this in itself would not have permitted the attainment of these ends, had he not applied himself personally, as he has done, to complement WIPO's admittedly scarce development resources by efficient cooperative arrangements with governments of member countries.

As a result, the World Intellectual Property Organization has attuned its activities and broadened its horizons to encompass the pressing realities of today's unbalanced world. It is fitting, therefore, that these expanded activities should now be carried out from this new headquarters building. Its glowing facade reflects not only the skies above the blue Léman, but also the new, more dynamic and infinitely more purposeful destiny of WIPO.

As you, yourself, have pointed out, Mr. Director General, I had the privilege of living in this lovely city of Geneva for almost four years and, having known it well, I can say that there is no more beautiful structure than this building which we are inaugurating today.

As I look at the modern features of this Assembly Hall, I cannot help feeling that, at the same time, it radiates and elicits harmony and balance. It seems to have been designed for consensus, which means ever closer cooperation among member countries. May I express my sincere hope that it will always be used for that purpose.

Views of the outside and inside of the new building and photographs taken of the speakers at the inauguration and dedication ceremonies are inserted loose in this issue.

WIPO Symposium for Training in Copyright and Neighboring Rights

(Geneva, October 9 to 13, 1978)

Within the framework of the training courses that took place in October and November 1978, a symposium on copyright and neighboring rights matters was organized for trainees under the WIPO program of legal-technical assistance to developing countries at the WIPO headquarters in Geneva from October 9 to 13, 1978. Nationals from Algeria, Fiji, Ghana, India, Iran, Ivory Coast, Kenya, Niger, Thailand, Togo, Tunisia, Upper Volta, Venezuela and Zaire (17 trainees) attended the Symposium, as well as a trainee from Portugal. The list of participants is reproduced below.

The purpose of the Symposium was to provide the trainees with general information on the international legal instruments existing in the field of copyright and neighboring rights, as well as to give them an outline of some practical aspects of copyright protection, with particular emphasis on the organization of such protection at the international level.

The program of the Symposium included lectures delivered by WIPO officers on the following subjects:

- (i) the World Intellectual Property Organization;
- (ii) the Berne Convention for the Protection of Literary and Artistic Works;
- (iii) the international conventions in the field of neighboring rights: the Rome Convention (1961), the Phonograms Convention (Geneva, 1971) and the Satellites Convention (Brussels, 1974);
- (iv) WIPO activities in the field of legal-technical assistance to developing countries.

Other lectures, arranged with their kind cooperation, were given by representatives of the following international non-governmental organizations: the International Confederation of Societies of Authors and Composers (CISAC) (Role of societies of authors and functions of CISAC in this domain), the International Publishers Association (IPA) (Publishing, creativity and author's rights), the European Broadcasting Union (EBU) (Protection of broadcasting organizations regarding distribution of programme-carrying signals transmitted by satellite) and the International Federation of Producers of Phonograms and Videograms (IFPI) (Protection of producers of phonograms).

Each of the lectures was followed by a number of questions from the trainees which were duly answered.

Following the Symposium, the trainees went to various national copyright offices or societies of authors, most of them to Zurich and Paris and some

others to Budapest, London, Rome and Washington. Some of them visited copyright offices or societies of authors in other developing countries: Algeria, India and Senegal.

List of Participants

Trainees

ALGERIA

Brahim Aous
 Chef de Bureau de documentation-littéraire,
 Office national du droit d'auteur (ONDA), Alger
 Abdallah Guesmi
 Chef de Bureau de documentation-dramatique,
 Office national du droit d'auteur (ONDA), Alger

FIJI

Gracie Monica Kum Lai Fong (Miss)
 Legal Officer, Crown Law Office, Suva

GHANA

Samuel Yao Nudo
 Legal Officer, Ghana Broadcasting Corporation, Accra

INDIA

Sudarshan Lal Takkar
 Section Officer, Ministry of Education and Social Welfare,
 New Delhi

IRAN

Mohammad Hassan Karimi
 Directeur adjoint, Département juridique et parlementaire,
 Ministère de la culture et des arts, Téhéran
 Abbas Saidi-Far
 Expert juridique, Département juridique et parlementaire,
 Ministère de la culture et des arts, Téhéran

IVORY COAST

Adama Ouattara
 Conseiller technique, Ministère des affaires culturelles,
 Abidjan

KENYA

Rautta Athiambo
 Legal Assistant, Registrar General's Department, Nairobi

NIGER

Amadou Bonkaney
 Chef, Bureau du droit d'auteur, Niamey
 Toumani Ali Mahaman
 Chef de division, Ministère des affaires étrangères,
 Niamey

PORTUGAL

Maria de Lourdes Falcão Simões de Carvalho (Mrs.)
 Head, Copyright Division, Ministry of Culture, Lisbon

THAILAND

Chaivat Tanpleng
 Legal Officer, Translation and Copyright Section,
 Literature and History Division, Ministry of Education,
 Bangkok

TOGO

Kossi Ségan Tsogbe
Attaché d'administration, Direction des affaires
culturelles, Lomé

TUNISIA

Mohamed Larbi Hachem
Maître assistant, Faculté de droit, Tunis

UPPER VOLTA

Sibiri Oumar Traore
Secrétaire général, Direction générale des affaires
culturelles, Ouagadougou

VENEZUELA

Jeanette Soto de Jantzen (Sra.)
Traductora multilingue en asuntos jurídicos,
Instituto de Derecho Comparado, Caracas

ZAIRE

Mangassa Salakosso Leta
Chef de bureau, Chargé de la documentation, études et
publications, SONECA, Kinshasa

International Non-Governmental Organizations

European Broadcasting Union (EBU): W. Rumphorst. **International Confederation of Societies of Authors and Composers (CISAC):** J. Elissabide. **International Federation of Producers of Phonograms and Videograms (IFPI):** E. Thompson. **International Publishers Association (IPA):** J. A. Koutchoumow.

World Intellectual Property Organization

K.-L. Liguier-Laubhouet (Mrs.) (*Deputy Director General*);
C. Masouyé (*Director, Copyright and Public Information
Department*); S. Alikhan (*Director, Copyright Division*);
M. Stojanović (*Head, Legislation and Periodicals Section,
Copyright Division*).

Berne Union

PORTUGAL

Accession to the Paris Act (1971) of the Berne Convention

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of member countries of the Berne Union that the Government of the Portuguese Republic deposited, on October 10, 1978, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

The Paris Act of the Convention will enter into force, with respect to the Portuguese Republic, three months after the date of this notification, that is, on January 12, 1979.

Berne Notification No. 93, of October 12, 1978.

Conventions Administered by WIPO

Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations on Television by Cable

(Geneva, July 6, 1978, and Paris, September 18, 1978)

Report

prepared by the Secretariat and adopted by the Subcommittee

I. Introduction and Participation

1. The Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations on the problems raised by the transmission of television programmes by cable in regard to protection of the interest of the beneficiaries of the Rome Convention, hereinafter referred to as "the Subcommittee," met at Geneva on July 6, 1978.

2. The meeting of the said Subcommittee was convened pursuant to the decisions taken by the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) at its sixth ordinary session held in Geneva in December 1977, in order to look into solutions which might be offered to national legislators on the basis of legislative solutions adopted or planned in different countries, as well as current practice in respect of contractual relationships between the different interests concerned.

3. Five States members of the Intergovernmental Committee (Austria, Denmark, Mexico, Sweden, United Kingdom) were represented at the meeting. Three States party to the Rome Convention (Germany (Federal Republic of), Guatemala, Luxembourg) and eight States members of the Subcommittees set up by the Copyright Committees (Executive Committee of the Berne Union and Intergovernmental Committee of the Universal Copyright Convention) (Canada, France, India, Ivory Coast, Japan, Netherlands, Switzerland, United States of America) were represented in an observer capacity.

4. One intergovernmental organization (Arab Educational, Cultural and Scientific Organization (ALECSO)) and 12 international non-governmental organizations (European Broadcasting Union (EBU),

International Alliance for Diffusion by Wire (AID), International Confederation of Professional and Intellectual Workers (CITI), International Copyright Society (INTERGU), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Federation of Producers of Phonograms and Videograms (IFPI), International Music Council (IMC), International Secretariat of Entertainment Trade Unions (ISETU), International Union of Cinematograph Exhibitors (UIEC)) were represented by observers.

5. The list of participants is annexed to this report.

II. Opening of the Meeting

6. The meeting was opened by the representative of the Director General of WIPO, who extended, on behalf of the Secretariat of the Intergovernmental Committee, a warm welcome to the delegates and observers.

III. Election of Officers

7. On a proposal by the delegation of Denmark, supported by the delegations of the Federal Republic of Germany and the United Kingdom, Mr. Robert Dittrich, Head of the delegation of Austria, was elected Chairman.

IV. Adoption of the Agenda

8. The Subcommittee adopted its agenda as contained in document ICR/SC. 1/CTV/1.

V. Organization of the Work

9. Before proceeding to the organization of the work of the Subcommittee, several delegations and observers noted that, unlike the Copyright Conventions and the rights they extend to authors, the Rome

Convention does not protect the owners of exclusive rights when programmes are transmitted by cable television. Given the rapid expansion of the use of cable television and this lack of protection, the participants underscored the urgency of finding solutions so that the beneficiaries of the Rome Convention would be protected.

10. The Chairman proposed to the Subcommittee that its work be organized in the following manner:

(i) Possible Revision of the Rome Convention

11. In this connection, the Chairman recalled the idea put forward by the delegation of the Federal Republic of Germany at the meeting of the Working Group on the Problems in the Field of Copyright and So-Called Neighboring Rights Raised by the Distribution of Television Programmes by Cable (held in Paris from June 13 to 17, 1977), according to which an additional protocol to the Rome Convention could be drafted which would be restricted to regulating in the matter the protection of the categories covered by the Convention.

12. He also recalled that, since the problems of cable distribution were not dealt with in the Rome Convention, the question that had arisen was whether a revision of the Convention as a whole should not be undertaken.

(ii) Conclusion of Special Agreements

13. The Chairman drew the Subcommittee's attention to the possibilities available under Article 22 of the Rome Convention, which provides as follows: "Contracting States reserve the right to enter into special agreements among themselves in so far as such agreements grant to performers, producers of phonograms or broadcasting organisations more extensive rights than those granted by this Convention or contain other provisions not contrary to this Convention."

(iii) Drafting of Guidelines for Recommendation to States

14. The Chairman referred in this connection to the manner in which the Subcommittee of the Executive Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) and the Subcommittee of the Intergovernmental Committee of the Universal Copyright Convention had made an inventory, at their meetings in Geneva on July 3 and 4, 1978, of the problems to be considered by national legislations on the basis of a list of possible situations (document B/EC/SC. 1/CTV/5-IGC/SC. 1/CTV/5).

VI. Possible Revision of the Rome Convention

15. The Subcommittee considered that the adoption of an additional protocol to the Rome Convention

was tantamount, in legal terms, to a revision of the Convention, which would therefore entail the setting in motion of the procedure provided for in Article 29 of that instrument.

16. The Subcommittee further expressed the opinion that it was premature to start the revision procedure since the number of Contracting States was still small and, moreover, the ratification or accession processes that were going on in certain countries might be stopped if the decision were taken to revise the Convention. Furthermore, cable distribution was regulated by national legislation in only a very small number of Contracting States and it would be preferable, before defining such regulation at the international level by writing new provisions to that effect into the Convention itself, if other States had enacted legislation on the subject. Moreover, it did not seem appropriate to start preparing for revision while a survey on the implementation of the Convention was in progress.

VII. Conclusion of Special Agreements

17. The Subcommittee considered the possibility available to Contracting States of entering into special agreements under Article 22 of the Rome Convention.

18. It was of the opinion that, since too few States had dealt with the problems of cable distribution in their domestic laws, such a solution was unlikely to achieve the desired results and did not seem to warrant adoption for the time being.

19. Moreover, it was pointed out that the Rome Convention, for all its shortcomings, had nevertheless established a certain balance between the interests of the categories whose protection it sought to ensure and whose activities were often intermingled. Consequently, the risk of disturbing that balance through the conclusion of special agreements should be avoided. Besides, such agreements had little chance of being entered into because under the national treatment principle they would have the effect of according, in any State that was party to them, more extensive rights to foreigners than to its own nationals. A lack of balance was thus liable to arise in international relations in view of the fact that very few national legislations protected such categories in matters of retransmission by cable. However, the Subcommittee did not rule out the possibility, should countries happen to share the use of a satellite, of their entering into special agreements between themselves.

20. As to the idea that had been suggested of preparing a model special agreement, it also did not seem to warrant further consideration since the scope of such an instrument could still only be very limited.

21. Another idea put forward was that of drafting a model bilateral agreement on cable distribution which interested States could use as a basis for their negotiations. In view of the application of the national treatment principle provided for in the Convention, the Subcommittee did not think it necessary to adopt such a course.

VIII. Drafting of Guidelines for Recommendation to States

22. After its exchange of views on the solutions set forth above, the Subcommittee considered it advisable to draw up guidelines to be recommended to States for the settlement of the problems arising from the distribution of television programmes by cable. To that end, it took over the list of possible situations referred to in paragraph 14 above and examined it in relation to Articles 7, 10, 12 and 13 of the Rome Convention.

A. Legal Analysis

23. The Subcommittee considered the case of original transmissions on the one hand and that of re-transmissions of captured transmissions on the other.

24. The Subcommittee expressed the view that, as far as transmissions of television programmes by cable were concerned, domestic laws should treat original transmissions as broadcasts, and that the three categories of beneficiaries covered by the Rome Convention should be given, as a minimum, the same protection for those transmissions as for broadcasts. Some stressed the fact that such protection was a minimum, in view of the limitation appearing in Article 19 which could present problems in the regulation of cable distribution.

25. It was also felt that, if the concept of the broadcast were taken to include not only the medium of radio waves but also cable transmissions, domestic laws would clearly also have to take into account the provisions of Article 7, paragraph 2(1), of the Rome Convention as regards protection against fixation for the purposes of cable transmission, and reproduction of such fixations for such purposes, where the performer had consented to the broadcasting of his performance.

26. The Subcommittee then made a secondary distinction between original transmissions *made by a cable system* and those *made by the broadcaster himself via cable*.

Original Transmissions

27. With reference to the first category, it was pointed out that *transmission by a cable system*

raised more problems than broadcasting itself. In order to make his programmes, the cable distributor could use pre-existing material (broadcasts, films or audiovisual material). Consequently, if it were felt that use could be freely made of those elements, the performers would thereby suffer a far from negligible economic prejudice.

28. It was pointed out in this respect that, since the use of pre-existing films or audiovisual material involved prior fixation, the provisions of Article 7, paragraph 1(c)(ii), of the Rome Convention should be regarded as applicable *mutatis mutandis*. It was observed, however, that Article 19 of the Convention stipulated that Article 7 ceased to be applicable once the performers had consented to the incorporation of their performances in a visual or audiovisual fixation. Nevertheless, it had to be borne in mind in the latter case that Article 7, paragraph 1(c)(ii), remained applicable in the case of exclusively aural fixations.

29. The Subcommittee's attention was finally drawn to the fact that any proliferation of the use of prefabricated elements was liable to diminish the performers' opportunities of employment.

30. Some delegations felt that governments should consider first the need to assure performers of exclusive rights, or at least equitable remuneration, in the case of the cable transmission of their pre-existing performances, and then the action to be taken to prevent the technological unemployment that could be caused by such use and to facilitate the conclusion of collective agreements. Moreover, a collective administration system might enable performers who adhered to it to control the use of pre-existing material.

31. It was nevertheless pointed out that the regulation of cable distribution came within the competence of the public sector in some countries, as part of the organic regulation of the mass media as a whole. Moreover, any limitation on the cable transmission of pre-existing material that might be envisaged, whether relating to the nature of the programmes or to their scope, should be undertaken with caution in order to avoid a situation where local news items or programmes made by local amateurs were substituted for the performances of professionals.

32. Another question that was raised was whether the cable distributor should not be accorded the same protection as that afforded under the Rome Convention to broadcasting organizations. It was observed that in certain countries such was indeed the case in view of the fact that the concept of broadcasting was interpreted broadly and covered cable transmission, the latter being therefore protected to the same extent as broadcasting.

33. As for *original transmissions made by the broadcaster himself via cable*, the Subcommittee recalled that they should be assimilated to broadcasting operations as far as the minimum protection afforded by the Convention was concerned. It was suggested that the situation should be governed by a model contract, drawn up on a collective basis, which could be used by broadcasting organizations in their negotiations with interested parties.

Retransmissions of Captured Transmissions

34. On the subject of retransmissions of captured transmissions, the Subcommittee endorsed the various considerations expressed on the subject by the Subcommittees of the Copyright Committees, considering that they were equally valid not only for authors but also for all the other contributors to the programme. Nevertheless, reservations were made on the subject by the representatives of the performers' organizations (International Federation of Actors (FIA), International Federation of Musicians (FIM)), particularly with reference to the interpretation of contracts and the compulsory license system. The Subcommittee was also of the opinion that, in so far as exceptions were made to the exclusive rights of authors in the case of cable transmissions, the same exceptions should apply to other contributors.

35. In this respect, it was pointed out that, as far as performers were concerned, it would be desirable that account be taken, in contractual negotiations with the organizations concerned, of the principles written into Section 2(2) of the Model Law concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. Under that provision, unless agreed otherwise, the following should be prohibited: (i) the rebroadcasting and/or fixation of a live performance when broadcasting only has been authorized; (ii) the reproduction of a fixation when broadcasting and fixation only have been authorized; (iii) broadcasting from a fixation or a reproduction when fixation and reproduction only have been authorized.

36. In the case of changes liable to be made to programmes, the Subcommittee's attention was drawn to the possible consequences of the replacement, at the time of their distribution by cable, of certain programme-units by others from a different broadcasting channel. In such cases, not only would viewers not get what they had expected when they chose the programme, but, in addition, it would amount to allowing the use of a medium produced by a third party, at his expense, for the benefit of another third party whose programme-unit was incorporated in the programme transmitted by cable. That could happen, for instance, where a cable distribution organization was compelled by legal or

administrative obligations (prohibition of foreign publicity, of retransmissions of sporting events or of retransmissions of programmes considered contrary to morality or detrimental to public order, etc.) to black out certain parts of the programme retransmitted by it. It could also happen if the organization in question made such changes on its own initiative. In those cases, especially where advertising was concerned, the resulting adverse economic effect on the advertiser whose advertisements were removed from the retransmitted programme could be quite considerable. It therefore seemed desirable, in the event of compulsory blacking out, to refer the viewer to another channel in the case of simultaneous retransmissions or, in the case of non-simultaneous retransmissions, not to authorize the cable distributor to make replacements by using programme-units from another channel. The same should apply where the cable distributor altered the retransmitted programme on his own initiative, to the extent at least that he was not banned from making alterations.

37. The Subcommittee's attention was also drawn to the provisions of Article 12 of the Rome Convention, which provides only for a right to equitable remuneration, whereas at the copyright level exclusive rights are involved except in the specific cases where domestic laws have introduced non-voluntary licenses involving remuneration. The question that therefore arose was how to reconcile the principles on which Article 12 was based with the rules applicable to cable distribution when phonograms were used in the retransmitted programmes.

38. On the subject of Article 12, the observer from the International Federation of Musicians (FIM), speaking also on behalf of the International Federation of Actors (FIA), pointed out that performers could not accept a situation where, for reasons of a practical nature, their rights would have to be limited to a right to equitable remuneration as provided in Article 12. Experience gained in the United Kingdom with the broadcasting of discs authorized for limited periods controlled according to the time the needle is on the disc (the so-called "needle time" system) substantiated that view. He added that the difficulties were not insurmountable and that it was possible to introduce a system whereby performers were given a right of control which would be exercised collectively, on the understanding that there would always be the possibility of arbitration. It was noted, however, that the system referred to existed only in the United Kingdom and not in the other States party to the Rome Convention.

39. The Subcommittee considered that, in so far as cable distribution was regarded as communication to the public, the right to remuneration provided for in Article 12 should apply.

40. It was recalled, however, that Articles 12 and 16 of the Rome Convention were inseparable, the latter making it possible to exclude or limit the application of the former.

B. Administration of Rights

41. The Subcommittee — like the Subcommittees of the Copyright Committees — expressed the opinion that, as a general rule, in the case of simultaneous retransmissions of entire programmes only collective administration was compatible with the obligations to be met by cable distributors, who had to obtain the authorization of all the contributors to the programmes.

42. It was pointed out that, even though the system of collective administration seemed the most appropriate in view of the sheer number of authorizations to be obtained, such a system could nevertheless prove inadequate for the normal operation of cable distribution, when a large number of broadcast programmes belonged to fields that were outside copyright or neighboring rights; those included sporting events, weather reports and information communicated by press agencies. It would therefore be desirable that collective administration, if it alone were to govern cable distribution, should also take account of those interests.

43. It seemed, however, to the Subcommittee that the situation at issue was not peculiar to cable distribution, but that it rather concerned broadcasting as such.

44. Furthermore, the Subcommittee's attention was drawn to Article 7, paragraph 2(3), of the Rome Convention, which provided that the domestic law should not operate to deprive performers of the ability to control, by contract, their relations with broadcasting organizations, and the Subcommittee wondered whether a system of legal licenses would be compatible with that provision.

45. At that stage of the discussion there arose the question whether, in the guidelines to be recommended to national legislators, performers should be given the possibility of opposing retransmission by cable across national boundaries. After the idea had

been put forward that the possibility could be provided for whole programmes but not for programme-units, the Subcommittee took the view that national legislation had to be allowed some latitude in the matter when interpreting the provision in question, in so far as it was regarded as applying to cable distribution and not only to broadcasting by Hertzian waves as was the case in convention law in its current form.

46. It was observed, however, that assimilation of the cable to Hertzian waves for the application of Article 7, paragraph 2(3), of the Rome Convention could present some problems to the extent that the authorization required for retransmission must be a matter for the cable distributor and not for the broadcasting organization, and that therefore the question arose of the control by the performers of compliance with the relevant contracts.

47. The Subcommittee expressed the opinion that, while exceptions to the principle of prior authorization could be provided for under national legislation in this connection, the fact remained that relations at the contractual level were still possible, for instance for the negotiation of the amount of remuneration or the extent of use.

IX. General Remarks

48. In the light of an observation made by the delegation of Mexico, the Subcommittee expressed the view that the guidelines it had worked out were intended in principle for the use of States party to the Rome Convention whose relations were established on the basis of national treatment, but that it was for the Intergovernmental Committee of the Rome Convention to give them a broader application. As for the relations of those States with others, it was agreed that they could be established on the basis of reciprocity.

X. Closing of the Meeting

49. In the absence of the Chairman of the Subcommittee, the meeting at which this report was adopted and which took place in Paris on September 18, 1978, was presided over by Mr. V. Tarnofsky, Head of the delegation of the United Kingdom, who, after the customary thanks, closed the discussions.

List of Participants

I. States Members of the Subcommittee

Austria: R. Dittrich. **Denmark:** W. Weincke. **Mexico:** J. M. Teran Contreras; F. Riva Palacio; V. Blanco Labra; M. F. Ize de Charrin. **Sweden:** H. Olsson. **United Kingdom:** A. Holt.

II. Observer States

Canada²: B. D. Torno. **France**³: J. Buffin; G. Delaume. **Germany (Federal Republic of)**^{1, 3}: E. Steup. **Guatemala**¹: A. L. Dupont-Willemin. **India**^{2, 3}: G. S. Edwin. **Ivory Coast**²: A. Ouattara. **Japan**³: H. Hayashida. **Luxembourg**¹: E. Emringer; J. Jungers. **Netherlands**³: E. Lukacs; M. Reinsma; M. B. van Meerten; J. Felkers. **Switzerland**²: J.-L. Marro; A. Schmid; R. Grossenbacher. **United States of America**³: B. Ringer; P. A. Lyons.

III. Intergovernmental Organizations (Observers)

Arab Educational, Cultural and Scientific Organization (ALECSO): M. Ben Amor.

¹ State party to the Rome Convention but not member of the Subcommittee.

² State member of the Subcommittee of the Executive Committee of the Berne Union.

³ State member of the Subcommittee of the Intergovernmental Copyright Committee.

IV. International Non-Governmental Organizations (Observers)

European Broadcasting Union (EBU): M. Cazé; W. Rump-horst. **International Alliance for Diffusion by Wire (AID):** W. H. Metz. **International Confederation of Professional and Intellectual Workers (CITI):** A. L. Dupont-Willemin. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** G. Croasdell. **International Federation of Associations of Film Distributors (FIAD):** G. J. Grégoire. **International Federation of Film Producers Associations (FIAPF):** A. Brisson; M. Ferrara Santamaria; R. Hadl. **International Federation of Musicians (FIM):** J. Morton; R. Leuzinger. **International Federation of Producers of Phonograms and Videograms (IFPI):** G. Davies; C. de Souza Amaral; E. Thompson. **International Music Council (IMC):** J. Morton. **International Secretariat of Entertainment Trade Unions (ISETU):** J. Schweinzer. **International Union of Cinematograph Exhibitors (UIEC):** J. Handl.

V. Secretariat

International Labour Office (ILO)

G. Bohère (*Chief, Salaried Employees and Professional Workers Branch*); S. C. Cornwell (*Salaried Employees and Professional Workers Branch*).

United Nations Educational, Scientific and Cultural Organization (UNESCO)

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

World Intellectual Property Organization (WIPO)

C. Masouyé (*Director, Copyright and Public Information Department*); S. Alikhan (*Director, Copyright Division*).

Law Survey

(Continued)*

Liechtenstein

1. Official title and date of current legislation

Law concerning Copyright in Literary and Artistic Works, of October 26, 1928, as amended up to August 8, 1959.

2. Works eligible for protection

General eligibility criteria

The main categories of literary and artistic works protected under the Law are listed in Article 1. In the case of literary and musical works, protection is given whether or not they are written or fixed in any other manner.

The Law protects works of nationals of Liechtenstein, whether published in Liechtenstein or abroad or unpublished, and works of foreign authors first published in Liechtenstein (Art. 6).

Special categories of works

Translations, reproductions having the character of original works, adaptations to instruments serving to perform works mechanically, etc., are protected as original works. Works of applied art, scenic arrangements fixed by cinematography, photographs and compilations are also protected (Arts. 1 to 3). Deposited designs and models are not deprived of protection under the Law (Art. 5).

The Law contains no provisions on type faces, typographical arrangement or folklore as such.

Works not protected

The provisions of the Law do not apply to texts of laws, decisions, discussions or reports of public authorities or to patent specifications (Art. 23), nor to reports of public meetings and speeches (Art. 24).

3. Beneficiaries of protection (copyright owners)

In general the author of a work enjoys protection. The person whose name is indicated in the work as author or who is designated as the author in the case of public performance or exhibition of a work shall be presumed to be the author. Where the author's name is not indicated in the work, the publisher is responsible for safeguarding the copyright (Art. 8). Where the work is created by collaboration and the individual contributions cannot be separated, all the collaborators possess a common copyright (Art. 7).

4. Rights granted

Copyright includes the right to reproduce the work by any process, to put into circulation copies thereof, to recite, perform or exhibit the work publicly, to transmit publicly the work or its recitation, performance or exhibition over wires, to broadcast the work or communicate the broadcast over wires or otherwise, by an organization other than the originating organization, and generally to communicate the broadcast or work by any other means (Art. 12). The right to reproduce includes, in particular, the right to translate the work, to adapt it to instruments serving to recite or perform it mechanically and to reproduce the work by cinematography or by analogous process (Art. 13).

The Law contains no specific provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Articles 22 to 33^{bis} set out acts which do not constitute infringement. These include: reproduction for personal and private use; reproduction in the press of the news of the day or topical articles relating to economics, politics or religion, unless expressly reserved; reproduction in scientific works for purpose of explanation, or of literary works in school textbooks; reproduction or adaptation of works, under specific provisions, for the purpose of an authorized performance; reproduction of a commissioned portrait of a person; reproduction, for the purpose of illustration in textbooks, of works of art or photography; utilization of authorized reproductions; reproduction of text of the musical works for distribution to the audience; exhibition of copies of works of art not made public, and reproduction of feature-articles by way of photography, broadcasting or cinematography.

Provision has been made for the grant of compulsory licenses to adapt a musical work to instruments serving to perform it mechanically, on certain conditions, as specified in Article 17. Such licenses can also be issued in respect of the texts of musical works (Art. 18).

6. Term of protection

The protection is for the lifetime of the author and for 50 years after his death, or the death of the last surviving author in the case of joint works (Arts. 36 and 39).

In the case of anonymous or pseudonymous works it is 50 years from publication (Art. 37), while in the case of posthumous works it is 50 years after the death of the author (Art. 38).

* See the Introduction in the September issue, p. 213.

In all cases, the term commences from the end of the calendar year in which the event takes place (Art. 41).

7. Transfer of rights

Copyright is capable of assignment and transmission to heirs. The transfer of one particular right does not imply the transfer of any other right, in the absence of an express agreement to the contrary. This applies in particular to the right of reproduction (Art. 9).

In the case of joint works, all the collaborators must agree to the transfer (Art. 7).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no specific provisions on the protection of the rights of performers, producers of phonograms, or on broadcasts as such. However, performers and producers of phonograms are protected as owners of the rights in the adaptation (Art. 4).

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from August 1, 1951 (substantive provisions); Stockholm Act, 1967, as from May 25, 1972 (administrative provisions).

Universal Copyright Convention, 1952, as from January 22, 1959.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from February 13, 1977.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Works of foreign authors first published abroad are protected to the extent that the country in question grants similar protection to nationals of Liechtenstein. The Government decides whether this condition is fulfilled (Art. 6). In regard to the special provisions for the adaptation of musical works to instruments serving to perform them mechanically, the requirement that the person concerned should have an industrial establishment in the country can be waived by the Government on the basis of reciprocity (Art. 17).

Luxembourg

1. Official title and date of current legislation

Copyright Law, of March 29, 1972.

2. Works eligible for protection

General eligibility criteria

Literary and artistic works, the authors of which enjoy therein an incorporeal property right, include every production in the literary and artistic domain, whatever may be the mode or form of its expression. Choreographic works and entertainments in dumb show, however, are included only if their acting form is fixed in writing or otherwise (Art. 1).

No formalities are required.

Special categories of works

Copyright in a cinematographic work is vested in the maker thereof (Art. 27). In the absence of any contrary or special stipulation, the contract concluded by the maker with the authors of the works used in the cinematographic work, with the exception of musical works, implies a transfer to him of the right to exploit such work by all means and processes (Art. 28).

Photographic works, to which are assimilated works expressed by a process analogous to photography, and works of applied art are protected according to the general rules (Art. 1).

Translations, adaptations and arrangements of music and other alterations of a literary or artistic work are protected as original works. Collections of works which constitute intellectual creations are also protected as such (Art. 1).

A work of art reproduced by industrial processes or applied to industry remains subject to the provisions of the Copyright Law (Art. 20).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Speeches made in deliberative assemblies, at public hearings of the courts or at political meetings may be freely published or broadcast (Art. 11). Official texts of the authorities and official translations of such texts do not give rise to copyright (Art. 12). News of the day and miscellaneous facts having the character of mere items of press information may be freely utilized (Art. 14).

3. Beneficiaries of protection (copyright owners)

Authors of literary or artistic works enjoy therein an incorporeal property right which is exclusive and exercisable against all persons (Art. 1). The person whose name is indicated on the work in the usual manner as being that of the author is presumed to be the author of the work (Art. 5).

Where the work is the product of collaboration so that the individual contributions of the authors are indivisible, copyright exists for the benefit of all the copyright owners and its exercise is regulated by agreements. Failing such agreements, none of the co-authors may exercise it individually; in case of disagreement, the courts will decide. Nevertheless, each of the co-authors is free to institute proceedings, in his own name, in the event of an infringement of copyright (Arts. 6 and 7).

The Law contains no specific provisions with regard to works made for hire.

4. Rights granted

The author's rights carry intellectual and moral attributes, and likewise economic attributes (Art. 1), as specified below.

Economic rights

The author's exclusive right of exploitation is the right to reproduce the work or to disclose it in any other way to the public (Art. 3). It includes the right of public performance and any communication to the public of the performance, the right of public recitation and any communication to the public of the recitation (Art. 15), the right of making translations, arrangements, adaptations and other alterations (Art. 16), the right of broadcasting and any communication to the public of the broadcast (Art. 23), the right of cinematographic adaptation and reproduction and of the public performance and communication to the public of the works thus adapted or reproduced (Art. 26).

Moral rights

The moral rights include the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work which would be prejudicial to the author's honor or reputation (Art. 9).

Droit de suite

Authors of the graphic and plastic arts have an inalienable right to share in the proceeds from any sale of their works by public auction or through a dealer, at the rate of not more than 3 percent as from a minimum selling price (Art. 22).

5. Limitations on copyright

Lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press and broadcast when that is justified by the informative purpose (Art. 11). Under the same conditions, works seen or heard in the course of a current event may be reproduced and made available to the public on the occasion of a report on the event (Art. 14). Quotations from works lawfully made available to the public and the utilization of works by way of illustration for teaching, if compatible with fair practice (Art. 13), as

well as reproduction by the press or broadcasting of articles on current economic, political or religious topics, published in newspapers or periodicals, or broadcast (Art. 14), are permitted if accompanied by an indication of the source. Works of art permanently situated in a public place may be reproduced and made available to the public by means of cinematography or broadcasting (Art. 21).

A compulsory license is provided for the broadcasting of works already made available to the public whose exploitation has been entrusted to an organization exercising copyright (Art. 24).

Ephemeral recordings (to be destroyed or rendered unusable within 3 months) are lawful under the usual conditions (Art. 25).

6. Term of protection

The general term of protection is 50 years after the death of the author (Arts. 2 and 10). Copyright in photographic works and works of applied art expires 50 years after their making (Art. 4), and in cinematographic works 50 years after the work has been lawfully made available to the public (Art. 27).

The author's moral rights last throughout the term of protection (Art. 9).

7. Transfer of rights

The right of exploitation may be assigned or transferred, wholly or partially, in accordance with the provisions of the Civil Code (Art. 3).

The moral rights are attached to the author personally (Art. 9).

After the author's death, copyright continues to exist for the benefit of his heirs or successors in title (Art. 2).

8. *Domaine public payant*

No provisions.

9. Neighboring rights

Protection of neighboring rights is provided for in the Law on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, of September 23, 1975.

10. Agencies set up under law and their function

Any organization exercising copyright for the account of more than one author or copyright owner must obtain an authorization from the member of the Government having responsibility for copyright matters. Administrative regulations are issued specifying the conditions concerning the authorization (Art. 48).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from April 20, 1975.

Universal Copyright Convention, 1952, as from October 15, 1955.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from October 31, 1963.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 5(3) (concerning Article 5(1)(c)) and 16(1)(a)(i) and (1)(b) as from February 25, 1976.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from March 8, 1976.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Foreigners enjoy the rights guaranteed by the Copyright Law, provided that the term of such rights shall not, in so far as they are concerned, exceed the term fixed by the legislation of Luxembourg (Art. 47).

Malawi

1. Official title and date of current legislation

The Copyright Act 1965. Entry into force: May 24, 1965.

2. Works eligible for protection

General eligibility criteria

A literary, musical or artistic work, is not eligible for copyright unless sufficient effort has been expended on making the work to give it an original character, and the work has been written down, recorded or otherwise reduced to material form (Sec. 3(2)).

Copyright is conferred on every work eligible for copyright if the author is a citizen of, or is domiciled or resident in, Malawi or, if the owner is a body corporate, it is incorporated under the laws of Malawi or, in the case of a literary, musical, artistic or cinematographic work, it is first published in Malawi or, in the case of a sound recording, it is made in Malawi. The criterion of place of publication or making does not apply to cases covered by the criterion of nationality or domicile (Secs. 4 and 5).

No formalities are required.

Special categories of works

Apart from literary, musical and artistic works, the Act protects also cinematograph films, sound recordings and broadcasts which include wire diffusion (Sec. 3).

The term "work" includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which present an original character.

Artistic works include works of artistic craftsmanship and pictorial woven tissues and articles of applied handicraft and industrial art (Sec. 2). If, however, an artistic work is intended by the author to be used as a model for multiplication by industrial process, it shall not be eligible for copyright (Sec. 3(3)).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Written laws, law reports or judicial decisions are not included in the definition of literary works (Sec. 2(1)).

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author. Where, however, a work is made in the course of the author's employment, or is commissioned by a person who is not the author's employer, the copyright is deemed to be transferred to the employer or the person who commissioned the work, as the case may be, subject to any agreement between the parties excluding or limiting such a transfer (Sec. 11). In the case of works made by or under the direction or control of the Government or international bodies, copyright vests in them (Secs. 6 and 11(2)).

In the case of a cinematograph film or sound recording, the term "author" means the person by whom the arrangements for the making of the film or recording were undertaken. Similarly, in the case of a broadcast transmitted from within any country, "author" means the person by whom the arrangements for the making of the transmission were undertaken (Sec. 2(1)).

4. Rights granted

Copyright in a literary, musical or artistic work, or in a cinematograph film, is the exclusive right to control the reproduction in any material form, the communication to the public and the broadcasting of the whole or a substantial part of the work (Sec. 7(1)). Copyright in a sound recording is the exclusive right to control the direct or indirect reproduction of the whole or a substantial part of the recording (Sec. 9). Copyright in a broadcast is the exclusive right to control the recording and the rebroadcasting of the whole or a substantial part of the broadcast and, in the case of a television broadcast, also its communication to the public, in places where an admission fee is charged, and the taking of still photographs from it (Sec. 10). In all these cases, the act may be in relation to the work in its original form or a form recognizably derived from it. In the absence of any agreement to the contrary, an authorization to use the work in a cinematograph film includes one to broadcast the film (except in the

case of a musical work, where the owner of the right is entitled to fair compensation) (Sec. 8).

The Act contains no specific provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Exceptions from the copyright control, listed in the proviso to Section 7, include fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, educational broadcasting and other educational use, various kinds of non-commercial use in the public interest, use by way of parody, pastiche or caricature, ephemeral recording under specified conditions, use in judicial proceedings, use of works in the public interest under the direction or control of the Government or by public libraries, scientific institutions or non-commercial documentation centers, if no fee is charged, reproduction or the inclusion in a film or broadcast of an artistic work situated in a public place, etc. These exceptions, provided for in respect of literary, musical or artistic works and cinematograph films, are in some cases also applicable to sound recordings or broadcasts (Secs. 9 and 10).

The Act also provides for a compulsory license for the making or importing of sound recordings of literary or artistic works (Sec. 7(1)(h)) and for the broadcasting of works lawfully made accessible to the public with which no licensing body is concerned (Sec. 7(1)(l)).

6. Term of protection

The term of copyright for literary, musical and artistic works (other than photographs) is 25 years after the death of the author, or of the last surviving author in the case of joint authorship (in the case of anonymous or pseudonymous works or works of Government or international organizations, this period is calculated from the date of publication). The same term is counted for cinematograph films and photographs after their being first made lawfully accessible to the public. For sound recordings, the term of protection is 20 years after their making, and for broadcasts after they took place. All terms are calculated from the end of the year in which each of the events took place (Secs. 4, 5(2), 6(2) and (3)).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as movable property. An assignment or testamentary disposition may be limited to some only of the exclusive rights, or to a part of the period of the copyright, or to a specified country or other geographical area. No assignment or exclusive license is effective unless it is in writing. An assignment or license by one copyright owner has effect as if granted by his co-owners (Sec. 12).

8. *Domaine public payant*

No provisions.

9. Neighboring rights

The Act contains no provisions on the protection of the rights of performers as such. Producers of phonograms and broadcasting organizations are protected as owners of the relevant copyrights; see above.

10. Agencies set up under law and their function

The Act provides for the appointment of a competent authority. If the competent authority is satisfied that a licensing body is unreasonably refusing to grant licenses or is imposing unreasonable terms and conditions, it may direct that a license shall be deemed to have been granted at the time the act in relation to a work with which the licensing body is concerned is done, provided the prescribed fees are paid (Sec. 14).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from October 26, 1965.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

Malta

1. Official title and date of current legislation

The Copyright Act, 1967. Entry into force on January 1, 1970.

2. Works eligible for protection

General eligibility criteria

A literary, musical or artistic work is not eligible for copyright unless sufficient effort has been expended on making the work to give it an original character and the work has been written down, recorded or otherwise reduced to material form (Sec. 3(2)).

Copyright is conferred on every work eligible for copyright if the author is a citizen of, or is domiciled in, Malta or, if the owner is a body corporate, it is constituted under the laws of Malta and established in Malta or if the work (not being a broadcast) is first published or, in the case of sound recordings, made in Malta. The criterion of place of publication or making does not apply to cases covered by the criterion of nationality or domicile (Secs. 4 and 5).

No formalities are required.

Special categories of works

Apart from literary, musical and artistic works, the Act protects also cinematograph films, sound

recordings and broadcasts which include wire diffusion (Sec. 3).

The term "work" includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which present an original character. The term "literary work" includes lectures, encyclopedias, broadcasting scripts, choreographic works and entertainments in dumb show, etc. (Sec. 2(1)). Artistic works include works of artistic craftsmanship and pictorial woven tissues and articles of applied handicraft and industrial art (Sec. 2).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Written law, law reports or judicial decisions are not included in the definition of literary works (Sec. 2(1)).

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author. Where, however, a work is made in the course of the author's employment, or is commissioned by a person who is not the author's employer, the copyright is deemed to be transferred to the employer or the person who commissioned the work, as the case may be, subject to any agreement between the parties excluding or limiting such a transfer. The person whose name appears in the work as the author shall be deemed to be the author. In the case of anonymous or pseudonymous works, the publisher may exercise the rights of the author (Sec. 11(3)). In the case of works made by or under the direction or control of the Government or international bodies, copyright vests in them (Secs. 6 and 11(2)).

In the case of a cinematograph film or sound recording, the term "author" means the person by whom the arrangements for the making of the film or recording were undertaken. Similarly, in the case of a broadcast transmitted from within any country, "author" means the person by whom the arrangements for the making of the transmission were undertaken (Sec. 2(1)).

4. Rights granted

Copyright in a literary, musical or artistic work, or in a cinematograph film, is the exclusive right to control the reproduction in any material form, the communication to the public and the broadcasting of the whole or a substantial part of the work (Sec. 7(1)). Copyright in a sound recording is the exclusive right to control the direct or indirect reproduction of the whole or a substantial part of the recording (Sec. 9). Copyright in a broadcast is the exclusive right to control the recording and the rebroadcasting of the whole or a substantial part of the broadcast, and, in the case of a television broadcast, also its communication to the public, in places where an admission fee is charged, and the taking of

still photographs from it (Sec. 10). In all these cases, the act may be in relation to the work in its original form or a form recognizably derived from it. In the absence of an agreement to the contrary, an authorization to use the work in a cinematograph film includes one to broadcast the film (except in the case of a musical work, where the owner of the right is entitled to fair compensation) (Sec. 8).

The mutilation or modification of a work in a way prejudicial to the author's honor or reputation is forbidden during the term of copyright (Sec. 14).

The Act contains no specific provisions on *droit de suite*.

5. Limitations on copyright

Exceptions from the copyright control, listed in the proviso to Section 7, include fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, educational broadcasting and other educational use, various kinds of non-commercial use in the public interest, use by way of parody, pastiche or caricature, ephemeral recording under specified conditions, use in judicial proceedings, reproduction or the inclusion in a film or broadcast of an artistic work situated in a public place, etc. These exceptions, provided for in respect of literary, musical or artistic works and cinematograph films, are in some cases also applicable to sound recordings or broadcasts (Secs. 9 and 10).

6. Term of protection

The term of copyright for literary, musical and artistic works (other than photographs) is 25 years after the death of the author, or of the last surviving author in the case of joint authorship (in the case of anonymous or pseudonymous works or works of Government or international organizations, this period is calculated from the date of publication). The same term is counted for cinematograph films and photographs after their being first made accessible to the public by the owner of the copyright, for sound recordings after their making, and for broadcasts after they took place. The terms are calculated as from the end of the year in which each of the events took place (Secs. 4, 5 and 6).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as movable property. An assignment or testamentary disposition may be limited to some only of the exclusive rights, or to a part of the period of the copyright, or to a specified country or other geographical area. No assignment or exclusive license is effective unless it is in writing; but a license to communicate a work to the public may be oral or be inferred from conduct. An assignment or license granted by a joint author has effect as if granted by the other joint authors, but any such joint author may within 3 months apply to the Copyright Board for relief (Sec. 12).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act does not protect rights of performers as such. Producers of phonograms and broadcasting organizations are protected as owners of the relevant rights; see above.

10. Agencies set up under law and their function

The Act provides for the appointment of a Copyright Board with the composition as set out in Section 17. Its main function is to grant compulsory licenses. If it appears to the Board that a licensing body is unreasonably refusing to grant licenses or is imposing unreasonable terms and conditions, it may direct that a license shall be deemed to have been granted at the time the act in relation to a work with which the licensing body is concerned is done, if the prescribed fees are paid (Sec. 15).

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928 (substantive provisions), as from September 21, 1964; Paris Act, 1971 (administrative provisions), as from December 2, 1977.

Universal Copyright Convention, 1952, as from November 19, 1968.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

No provisions.

Published works must bear the expression "*Derechos Reservados*" or its abbreviation "D. R." followed by the symbol ©, the full name and address of the copyright owner and an indication of the year of first publication. The non-fulfillment of these requirements, however, does not involve loss of copyright (Art. 27).

Special categories of works

Exclusive rights in the title or caption of a newspaper, magazine, newsreel and any periodical publication or diffusion may be reserved during the period of publication or diffusion and one year thereafter (Art. 24).

Publishers of intellectual or artistic works, newspapers or magazines, and producers of films or like media of publication, may reserve the right to the exclusive use of graphic characteristics which are distinctive of the work or collection. This protection continues for 2 years from the date of the certificate of reservation of rights and is renewable under specified conditions (Art. 26).

Arrangements, compendiums, amplifications, translations, adaptations, compilations and transformations which, of themselves, have originality are protected to the extent of such originality, but may only be published when authorized by the owner of the copyright in the work from which they have been derived (Art. 9).

The Law contains no specific provisions on works of applied art, designs and models, type faces or works of folklore.

Works not protected

The publication of officially published or promulgated laws and regulations requires no special authorization, but reference must be made to their official source (Art. 21).

3. Beneficiaries of protection (copyright owners)

The Law recognizes and protects rights in favor of the author of works specified therein (Art. 2). In the absence of proof to the contrary, the person whose name or pseudonym is indicated in a work as the author thereof is presumed to be the author (Art. 17). Unless expressly provided otherwise by the Law, legal entities can only hold copyright as successors in title (Art. 31).

In the case of works created by 2 or more authors, the rights belong to all, in equal shares, unless there is agreement to the contrary; the consent of the majority is necessary for the exercise of such rights (Art. 12). When respective contributions can be determined, each co-author has copyright in his own contribution, but the complete work may be published or reproduced in accordance with Article 12 (Art. 13).

Physical persons and legal entities producing a work with the special and remunerated participation or collaboration of one or more persons enjoy copyright therein (Art. 59).

Mexico

1. Official title and date of current legislation

Federal Law of Copyright, as amended on November 4, 1963.

2. Works eligible for protection*General eligibility criteria*

The Law protects the rights of authors of every intellectual or artistic work, irrespective of whether it has been registered, published or become known to the public (Arts. 1 and 8). The protection has legal effect when the works are expressed in any objective and durable form capable of reproduction or communication to the public, such as writing, engraving, etc. (Art. 7).

4. Rights granted

Economic rights

The author's right to timely use and exploitation of his work includes the rights of reproduction, performance and adaptation of the work effected by any means (Arts. 2(iii) and 4).

Moral rights

The author has the right to the recognition of his authorship and the right to oppose any deformation, mutilation or modification of his work made without his authority, as well as any action denigrating the same or which is damaging to the honor, prestige or reputation of the author (Art. 2(i) and (ii)). These rights are perpetual, inalienable, imprescriptible and irrenunciabile (Art. 3).

Droit de suite

No specific provisions.

5. Limitations on copyright

Uses permitted without payment

Articles on current events published in newspapers, magazines or other means of diffusion may be reproduced, with a mention of the source, unless such reproduction has been prohibited (Art. 10).

Photographic works may, subject to the mention of the source, be freely published for educational, scientific or cultural purposes, or purposes of general interest (Art. 16).

The author's rights do not extend to: industrial application of the ideas contained in his work; use of a work in the reproduction or presentation of a current event; publication of works of art or of architecture visible from public places; translation or reproduction of brief extracts from works in educational or scientific publications, etc.; copying of published works for the exclusive use of the person making the copy (Art. 18).

Ephemeral recordings may be effected under the usual conditions (Art. 74).

Compulsory licenses

The Secretariat of Education may, under specified conditions, grant non-exclusive licenses for translation if, at the expiration of a period of 7 years from the first publication of the work, no translation has been published by the owner of the right of translation or with his authorization (Arts. 33 to 39).

The Federal Executive may, under specified conditions, declare a restriction on copyright, in order to permit the publication of works necessary or helpful to the advancement, diffusion or improvement of national science, culture or education (Arts. 62 to 71).

6. Term of protection

The economic rights (Art. 2(iii)) remain in force during the life of the author and for 30 years after

his death or, in the case of works produced in the service of the Federation, the States or the Municipalities, or first published by any Organization of Nations to which Mexico is a party, for 30 years from the date of publication (Arts. 23 and 31). As, however, Mexico is party to the Berne Convention, it is the 50-year term referred to in Article 7(1) of that Convention that prevails.

7. Transfer of rights

The economic rights (Art. 2(iii)) are transmissible by all lawful means (Art. 4). The Law contains detailed provisions on publication and reproduction contracts (Arts. 40 to 61) and on the rights of public use and performance (Arts. 72 to 80).

The exercise of the moral rights (Art. 2(i) and (ii)) is transmitted to legal heirs or to any other person by virtue of testamentary provisions (Art. 3). In the absence of such transmission, the Secretariat of Education becomes the owner of these rights (Art. 22).

8. *Domaine public payant*

From the total amount produced by the exploitation of works fallen into the public domain, a payment of 2 percent is made to the Secretariat of Education for the purpose of encouraging institutions beneficial to authors (Arts. 81 and 118(iii)).

9. Neighboring rights

Interpreters and performers (as defined in Article 82) are entitled to receive financial remuneration for the exploitation of their interpretations and performances, in accordance with Articles 79 and 80 relating to profit-making performances of works (Art. 84). They have the right to oppose the fixation, the broadcasting and any other form of communication to the public of their direct performances and of performances which are broadcast (Art. 87). Their express authorization is necessary for any broadcast, re-emission or fixation of a broadcast thereof, and any reproduction of such fixation (Art. 86). The term of protection granted to them is 20 years from the date of the performance, fixation or broadcast (Art. 90). The rights of authors of works have ascendance over those of their interpreters and performers (Art. 6).

The Law contains no specific provisions on the protection of the rights of producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The Copyright Directorate of the Secretariat of Education has the following functions: (i) to protect copyright under national legislation and international conventions; (ii) to mediate in disputes; (iii) to encourage institutions beneficial to authors; (iv) to maintain, supervise and safeguard the public Copyright Register (Art. 118). Detailed provisions concerning registration of works, contracts, powers of attorney, etc., are contained in Articles 119 to 132.

The constitution, organization, objectives and functions of societies of authors and performers are provided for in Chapter VI (Art. 93 to 117).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from December 17, 1974. Mexico has availed itself of the faculties provided for in Articles II and III of the Appendix to the Paris Act.

Universal Copyright Convention as revised in 1971, as from October 31, 1975. The Government of Mexico has declared that it wished Mexico "to be regarded as a developing country for the purpose of the provisions which refer to such countries."

Buenos Aires Copyright Convention, 1910, since 1964.

Washington Copyright Convention, 1946, since 1947.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, as from May 18, 1964.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from December 21, 1973.

12. Bilateral agreements

Copyright treaties or copyright provisions in treaties with Ecuador (1888), the Dominican Republic (1890), France (1950), Denmark (1954), the Federal Republic of Germany (1954) and Paraguay (1958).

13. Applicability to foreigners not covered by conventions or agreements

Works originating in a State with which Mexico has not concluded a treaty or convention are, subject to reciprocity, protected for 7 years from the date of first publication. If, after the expiration of this period, the author registers his work in accordance with the Law, he enjoys full protection thereunder (Art. 28). Foreigners who are permanently, temporarily or transitionally located in Mexico enjoy the same rights as national authors (Art. 29).

Monaco

1. Official title and date of current legislation

Law on the Protection of Literary and Artistic Works, No. 491, of November 24, 1948, with the amendments adopted on November 17, 1949 (Law No. 512).

2. Works eligible for protection

General eligibility criteria

The rights of authors in their literary or artistic works are guaranteed by Law. The author is not subjected to any formality (Art. 1).

Choreographic works and entertainments in dumb show are protected if their acting form is fixed in writing or otherwise (Art. 1).

The Law is applicable to published or unpublished works whose author or co-author is a national of Monaco, and to works first published in Monaco, whatever the nationality of their author (Art. 34).

Special categories of works

The author of translations, arrangements, adaptations or transformations enjoys protection, without prejudice to the rights of the author of the original work (Art. 5).

Cinematographic works, photographic works and works of applied art are protected under the general provisions (Art. 2).

The Law contains no special provisions on type faces, typographical arrangement or works of folklore.

Works not protected

No special provisions.

3. Beneficiaries of protection (copyright owners)

Authors enjoy the rights guaranteed by the Law (Art. 1). The publisher of an anonymous or pseudonymous work is treated as the author of the work in relationships with third parties (Art. 13).

A work of collaboration is the common property of its authors; however, when it does not form an indivisible whole, each of the co-authors may separately exploit his personal contribution, provided he does not prejudice the exploitation of the common work (Art. 7).

4. Rights granted

Only the author of a work has the right to publish it, to reproduce it or to disclose it in any other manner (Art. 3). He has in addition the exclusive right to translate, arrange or adapt it or make any other transformation of it (Art. 4).

The author has the right to claim authorship of his work and to object to any distortion, mutilation or other alteration of it, or any other action in relation to the work which would be prejudicial to his honor or reputation (Art. 19).

The Law contains no provisions on *droit de suite*.

5. Limitations on copyright

Articles of a factual character and those dealing with economic, political or religious discussions may be reproduced by the press, unless their reproduction is expressly reserved. However, the source must always be clearly indicated. Short quotations from articles in newspapers and magazines are permissible in the form of press reviews (Art. 15).

It is permissible to publish extracts from literary or artistic works, in publications of a scientific or scholastic character or in chrestomathies, provided an

indication is given of the source and of the author of the works (Art. 16).

The consent of the author is not required for public performances and exhibitions organized or authorized by the Government, the proceeds of which are destined for a charitable purpose, nor for performances and exhibitions which take place on the occasion of civil or religious ceremonies (Art. 17).

6. Term of protection

The period of protection is the life of the author and 50 years after his death. In the case of a posthumous work, the period is counted from the date of publication. In both cases, January 1st of the year following the event in question is taken as the starting point (Art. 12).

Moral rights are perpetual (Art. 20).

7. Transfer of rights

Copyright, in whole or in part, is assignable with or without consideration, and is transmissible by succession in accordance with the rules of the Civil Code (Art. 14).

The transfer of a work of art does not carry with it the right of reproduction. However, in the case of a commissioned portrait or bust, the right of reproduction is presumed, in the absence of any stipulation to the contrary, to be transferred with the work (Art. 10).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

Ordinances may provide for the organization of a society for the purpose of undertaking the collection of royalties (Art. 37).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from November 23, 1974.

Universal Copyright Convention as revised at Paris in 1971, as from December 13, 1974.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from December 2, 1974.

12. Bilateral agreements

Ordinance No. 625 of October 15, 1952, concerning the Protection of the Rights of Authors who are Nationals of the United States of America (Proclamation by the President of the United States of America on the same date).

13. Applicability to foreigners not covered by conventions or agreements

Works of applied art that do not fall within the categories to which the Law applies (see under 2 above) are protected by the Law to such extent as they are protected in their country of origin (Art. 34).

Morocco

1. Official title and date of current legislation

Dahir [Act] relating to the Protection of Literary and Artistic Works, No. 1-69-135, of 25 Jumada I 1390 [July 29, 1970].

2. Works eligible for protection

General eligibility criteria

Copyright exists in an intellectual work, whether literary, scientific or artistic, irrespective of its value, purpose, manner or form of expression, from the time of its creation (Arts. 1 and 49). A work is original when its characteristic features and its form, or its form alone, make it possible to identify its author (Art. 3).

No formalities are required.

Special categories of works

The Dahir contains special provisions concerning cinematographic works (Arts. 30 to 35).

Photographic works, to which are assimilated works expressed by a process analogous to photography, are protected according to the general rules, on condition that the name of the author is expressly indicated (Art. 6).

Works of applied art and works inspired by folklore are also protected according to the general rules (Art. 6). The fixation of folklore is subject to prior authorization by the organization of authors (Arts. 10(2) and 53).

Derivative works include translations, adaptations, new versions or arrangements of intellectual works, as well as collections of works which constitute intellectual creations; they are assimilated to original works, without prejudice to the rights of the author of the original work (Arts. 3 and 9).

Protection extends also to the publication of ancient manuscripts, under specified conditions (Art. 8).

The Dahir contains no specific provisions on industrial designs and models or type faces.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

An intellectual work belongs to its author (Art. 1), who, in the absence of proof to the contrary, is the person in whose name the work is disclosed (Art. 5(1)).

Where a work is produced pursuant to an employment contract, copyright belongs originally to the author, unless otherwise provided in the contract (Art. 5(2)). The same applies to cases where a work is commissioned, subject to some limitations regarding works of plastic art and commissioned portraits (Art. 5(3) and (4)).

Authorship of a cinematographic work belongs to the authors of the scenario, the adaptation, the dialogue and the musical compositions, with or without words, which are created for the production of the work, and to the principal director thereof (Art. 30). Unless otherwise agreed, the author's contract with the producer implies assignment to the latter of such rights as are necessary for cinematographic exploitation (Art. 35).

4. Rights granted

The attributes of the author's right are of a moral and economic nature (Art. 1).

The author's right of exploitation (*economic rights*) includes the right of performance (i. e., direct communication of the work to the public), the right of reproduction (i. e., its material fixation by any process making possible its indirect communication) and the *droit de suite* (i. e., sharing in the proceeds from any sale of a graphic or three-dimensional work by public auction or through a dealer) (Arts. 11 and 28). The making available of a work to the public means its public performance, any communication to the public of a performance, including public performance by means of instruments capable of reproducing works mechanically, the broadcasting of a work and the communication of the broadcast to the public (Arts. 12 and 13).

The *moral rights* include the right of the author to disclose the work, to claim the authorship and to defend the integrity thereof, as well as to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the work which would be prejudicial to his honor or reputation. These rights are inalienable (Art. 2).

5. Limitations on copyright

When a work has been lawfully made available to the public, the author may not prohibit: private performance, reproductions, translations and adaptations for personal and private use, and exhibition to the public (Art. 16(1) to (3)); reproduction by public libraries, non-commercial documentation centers, scientific institutions and educational establishments (Art. 18); reproduction in reports on current events and communication to the public (Art. 19); reproduction and communication to the public of works of art and architecture permanently located in a public place (Art. 20); sound or visual communica-

tions of broadcast works for educational purposes, unless otherwise agreed by the author (Art. 21); ephemeral recordings made by the radio and television organization (Art. 22).

Subject to mention of the source and of the name of the author, it is also lawful to make the following uses of work: by way of illustration in broadcasts or sound or visual recordings for teaching (Art. 16(4)); short quotations, including quotations from newspaper articles and periodicals (Art. 17(a)); reproduction of articles on current political, economic or religious topics in newspapers and periodicals, in so far as the rights have not been expressly reserved (Art. 17(b)).

Without prejudice to the right of the author to equitable remuneration, reproductions of exceptional documentary character or cultural value may be preserved in official archives under specified conditions (Art. 23).

6. Term of protection

The general term of protection is the life of the author plus 50 years (Art. 49). In the case of photographic, cinematographic, anonymous or pseudonymous works, it is 50 years from the end of the year in which the work is disclosed (Art. 51).

The moral rights may be exercised after the extinction of the economic rights (Art. 2).

7. Transfer of rights

The rights of performance, reproduction, adaptation and translation may be transferred free of charge or for consideration, in whole or in part. The assignment must be evidenced in writing (Art. 24). Total assignment of future works is null and void (Art. 25). The Dahir contains detailed provisions on publishing agreements (Arts. 36 to 48).

The above-mentioned rights are transferred by inheritance to the author's general or specific legatees (Art. 24). Escheated copyright accrues to the organization of authors, and the proceeds therefrom are used for social purposes to benefit Moroccan authors (Art. 27).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Dahir contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The protection and exercise of authors' rights are entrusted to an organization of authors, which has the right to carry on legal proceedings for the defense of the interests entrusted to it. Its agents, duly sworn in, are competent to record infringements (Arts. 53 to 55).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from May 22, 1952 (substantive provisions); Stockholm Act, 1967, as from August 6, 1971 (administrative provisions).

Universal Copyright Convention, as revised in 1971, as from January 28, 1976.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Works disclosed for the first time in States which do not provide adequate and effective protection for works disclosed for the first time in Morocco do not enjoy copyright protection under the Act (Art. 63).

Netherlands

1. Official title and date of current legislation

Law concerning the New Regulation of Copyright, of September 23, 1912, as amended up to October 27, 1972.

2. Works eligible for protection*General eligibility criteria*

The Law protects the rights of the author of any production in the literary, scientific or artistic fields, whatever may be the mode or form of expression; the main categories of protected works are listed in Article 10.

Protection is available to works first published in the Netherlands, as well as to all works, published or not published, of which the author is a Dutch citizen (Art. 47).

Special categories of works

Choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise, cinematographic and photographic works, works of applied art and industrial designs are protected according to the general rules (Art. 10). Reproductions, adaptations, translations and collections are protected as separate works, without prejudice to the copyright in the original works. Articles 19 to 24 contain detailed provisions regarding protection of rights in relation to portraits and other artistic works.

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Laws, decrees or ordinances issued by public authorities and judicial or administrative decisions are not protected by copyright (Art. 11).

3. Beneficiaries of protection (copyright owners)

In general the author of a work owns the copyright therein. The person whose name is indicated as the author in the work, or made known as such, is deemed to be the author (Art. 4). In the case of composite works consisting of separate works, or of a work produced under the guidance and supervision of another person, the person under whose guidance and supervision the work as a whole has been made is deemed to be the author of the work, subject to the individual copyright in the separate works (Arts. 5 and 6). Any public institution, foundation or partnership lawfully publishing a work will be deemed to be the author of the work, if the natural persons making the work are not named (Art. 8). If a work is produced by a person in the service of another, the employer is deemed to be the author thereof, unless otherwise agreed (Art. 7). In the case of anonymous or pseudonymous publications, the publisher may, on behalf of the copyright owner, assert the copyright against third parties (Art. 9).

4. Rights granted*Economic rights*

Economic rights include the right of reproduction by any means such as translation, arrangement of music, cinematographic or any other partial or total adaptation, as well as recording (Arts. 13 and 14). They also include the rights of publication, distribution, public recitation, performance or presentation, including the broadcasting and transmission by wire (Arts. 1 and 12).

Moral rights

Moral rights are protected to the extent provided in Article 25; they include the right of the author to claim authorship, to object to modifications prejudicial to his honor or reputation, etc.

Droit de suite

No provisions.

5. Limitations on copyright

Articles 15 to 25a set out the cases in which, the circumstances under which, and the conditions subject to which, certain acts do not constitute infringement. Some of the important limitations are: (i) reproduction of articles in newspapers and periodicals other than novels and short stories, except when the copyright is expressly reserved; or of articles on current political topics, news of the day and miscellaneous information, subject to certain restrictions in respect of foreign newspapers; or of short quotations of articles from the press (Arts. 15 and 15a); (ii) repro-

duction of passages from published works for educational purposes, subject to the conditions provided for in Article 16, or for reporting current events or for criticism or review (Arts. 16 and 16a); (iii) reproduction of a limited number of copies for personal use, subject to the conditions provided for in Article 16b; reproduction, in a limited number, of extracts of scientific works or articles published in newspapers or periodicals, for internal use by enterprises, organizations, etc., subject to the payment of equitable remuneration (Art. 17); (iv) vocal performance by religious communities (Art. 17c); (v) reproduction of works of art situated in public places (Art. 18); (vi) broadcast or communication by wire or otherwise of any literary work without the consent of the author, if permitted by administrative regulations, subject to payment of compensation and to Article 25 (moral rights) (Art. 17a); (vii) ephemeral recording by broadcasting organizations under the conditions specified in Article 17b; (viii) use of images of any nature in the interests of public safety or for judicial purposes (Art. 22).

A separate decree dated June 20, 1974, has been issued to make provision for reproduction of copyright works in certain special cases.

6. Term of protection

The term of protection is the life of the author and 50 years after his death, or the death of the last surviving co-author in the case of joint works (Art. 37). In the case of anonymous or pseudonymous works, posthumous works or works of bodies corporate, the period is 50 years from publication (Art. 38).

In all the above-mentioned cases the period is counted from January 1st of the year following the year in which the event took place.

7. Transfer of rights

Copyright is heritable and transferable in whole or in part as personal property. The transfer should be evidenced by a deed which should specifically mention the actual rights transferred (Art. 2).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from January 7, 1973 (substantive provisions); Paris Act, 1971, as from January 10, 1975 (administrative provisions).

Universal Copyright Convention, 1952, as from June 22, 1967.

European Agreement concerning Programme Exchange by means of Television Films, 1958, as from March 5, 1967.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from September 27, 1974.

12. Bilateral agreements

Copyright provisions in treaty with Thailand, 1938.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

New Zealand

1. Official title and date of current legislation

The Copyright Act, 1962, as amended up to December 8, 1971. Entry into force: April 1, 1963.

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in respect of original literary, dramatic, musical or artistic works if:

- (a) in the case of a published work, the work was first published in New Zealand, or the author was a citizen of, or was domiciled or resident in, New Zealand at the time of first publication or immediately before his death, whichever first occurred;
- (b) in the case of an unpublished work, the author was such citizen, or was domiciled or resident in New Zealand at the time when the work was made (Sec. 7).

Sound recordings, cinematograph films, television broadcasts and sound broadcasts are also protected.

No formalities are required.

Special categories of works

Separate and similar provisions have been made in respect of cinematograph films (Sec. 14), sound recordings (Sec. 13) and broadcasts (Sec. 15).

Adaptations of works are protected as original works, and the term "adaptation" is defined in the Act as including translation in the case of a literary or dramatic work (Sec. 2(2)).

The term "dramatic work" includes a choreographic work or entertainment in dumb show if the form of presentation is reduced to writing (Sec. 2(1)).

Publishers of published editions of literary, dramatic, musical or artistic works have been given copyright in these editions, i. e., the exclusive right

to reproduce, by photographic or similar process, the typographical arrangement thereof. This right continues to subsist until the end of the period of 25 years from the end of the calendar year in which the edition was first published (Sec. 17).

Sections 52 to 55 deal with Crown copyright and relaxations thereof.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of the work is the first owner of the copyright therein.

However, in the absence of any agreement to the contrary:

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by a proprietor of a newspaper or other periodical under a contract of service or apprenticeship, such proprietor shall be the owner of the copyright to the extent it relates to the publication, broadcasting, or reproduction in any newspaper or periodical, but in all other respects the author shall be the owner;
- (b) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, the employer shall be the owner (Sec. 9);
- (c) where the work is a Government work or a work published by or under the direction or control of any international organization recognized by the Government, the Government or the international organization, as the case may be, shall be the owner (Secs. 50 and 52).

Section 11 makes provisions for anonymous and pseudonymous works.

4. Rights granted

Copyright in relation to a literary, dramatic or musical work includes the exclusive right to, and authorize others to, produce, reproduce, perform or publish any work or any translation or adaptation thereof, or to use it for making a record or cinematograph film or to broadcast or to transmit it to subscribers to a diffusion service. In respect of an artistic work, it includes the right to reproduce, publish or broadcast it in television or by diffusion service (Sec. 7).

In the case of cinematograph films, copyright includes the right to reproduce or broadcast the film or cause it to be heard or seen in public or transmitted to subscribers to a diffusion service (Sec. 14).

The Law contains no specific provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Sections 19 to 21 and 61 set out the circumstances under which and the conditions subject to which various acts do not constitute infringement. Some of the more important of these are the following: fair

dealing for purposes of private study, research, criticism or review or for reporting current events in a newspaper or other periodical or in a broadcast, a photograph or a cinematograph film; reproduction, by way of painting, drawing, engraving or photography, of a sculpture permanently situated in a public place; publication of reasonable extracts from or collections of passages from published works, if intended for educational or scientific purposes, and reproduction for purposes of judicial proceedings, instruction in educational institutions, etc.; publication in newspapers of reports of any lecture, address or sermon delivered in public; taking copies by a librarian, for the use of a library, for supply to research students for private study or for performing certain public duties. Unpublished works in libraries can also be copied for research; reproduction by manufacture of records of musical works subject to payment of royalties (Sec. 22); transmission of broadcast programs to subscribers to a diffusion service (Sec. 60); making ephemeral records or cinematograph films for broadcasting purposes (Sec. 19).

6. Term of protection

If in the lifetime of the author, the work has been published or performed in public or included in a broadcast, or records of the work have been offered for sale to the public, copyright subsists until the end of the period of 50 years from the end of the calendar year in which the author died.

If, in the lifetime of the author, none of the acts referred to above took place, copyright subsists for a period of 75 years from the end of the calendar year in which the author died, but if any such act is done after the author's death, the period shall be 50 years from the end of the calendar year in which such act was done (Sec. 8).

The period will be 50 years from the year of first publication of the work in the case of anonymous or pseudonymous publications (Sec. 11).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition, or by operation of law, as personal or movable property. It can be assigned in whole or in part, but no assignment is valid unless it is in writing (Sec. 56). Future copyright can also be assigned, wholly or partially, in the same manner and in all respects as if it were then in existence, and on coming into existence the copyright shall vest in the assignee or his successor in title accordingly (Sec. 57).

8. *Domaine public payant*

No provisions.

9. Neighboring rights

The rights of makers of sound recordings are given protection on lines similar to those of authors in respect of literary, dramatic or musical works. Such rights include the right to reproduce, broadcast or cause the recording to be heard in public (Sec. 13).

In respect of broadcasts, protection is on similar lines and the rights include the right to record or rebroadcast the broadcast and, in the case of a television broadcast, to take a film or photograph of it otherwise than for private purposes (Sec. 15). The period of protection is 50 years from the end of the calendar year in which the recording or the broadcast was made.

The Act contains no provisions on the protection of the rights of performers as such.

10. Agencies set up under law and their function

A Copyright Tribunal has been set up under the Act to deal with various questions relating to licensing schemes in respect of the rights to record, broadcast, or perform, including the right of determination of compensation, royalties, remuneration to owners of copyright, and other matters relating to license schemes (Secs. 30 to 48).

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, as from December 4, 1947.

Universal Copyright Convention, 1952, as from September 11, 1964.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from August 13, 1976.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Protection is available to works of foreign origin from countries other than those which are party to a convention to which New Zealand is a party, if they have made reciprocal arrangements (Sec. 49). Works of authors from countries which do not adequately protect works of New Zealand can be denied protection (Sec. 51).

Nicaragua

1. Official title and date of current legislation

Civil Code, Part IV (Arts. 724 to 867), of February 1, 1904.

2. Works eligible for protection

General eligibility criteria

All original works, whether oral or written, enjoy copyright protection (Arts. 729 to 731). The protection is available to inhabitants of the Republic and to works published in Nicaragua by Nicaraguans or foreigners (Arts. 729 and 862).

Copyright can be acquired by a person only on condition of recognition of the right by the competent Ministry (*Ministerio de Fomento*), by means of a certificate and on compliance with the formalities set out in Articles 831 to 839 and 845.

Special categories of works

Translations, abstracts or abridgments and collections of works enjoy protection (Arts. 748, 752 and 756).

Specific provisions have been made in respect of artistic works (including photographs) and dramatic works (Arts. 765 to 798).

The Code contains no specific provisions on cinematographic works, works of applied art, designs, type faces or works of folklore.

Works not protected

Pleadings, parliamentary speeches, laws and other Government publications and judgments of courts are not protected, but collections of such matter cannot be published without permission (Arts. 732 and 763).

3. Beneficiaries of protection (copyright owners)

The author is, in general, the owner of the copyright (Art. 726). The person who has caused the work to be produced at his own expense shall, in the absence of agreement to the contrary, be deemed to be the author (Art. 849). Where an artistic work is made by the artist on commission by another person, the artist has no right of reproduction (Art. 797).

In respect of anonymous and pseudonymous works, the publisher is the owner of copyright (Art. 760). The publisher of a posthumous work, where there is no heir or transferee, is the owner of the right (Art. 740). A person who publishes for the first time an ancient manuscript owned by him is the owner of the copyright for his lifetime (Art. 762). In the case of compilations made or published by a person or body corporate, the owner of copyright therein is such person or body, subject to individual rights (Art. 748), while in the case of works like encyclopedias or periodicals produced jointly by several persons, but where individual contributions cannot be separated, the rights belong to them jointly subject to individual rights, if any (Arts. 745 and 747).

The publisher of a work which is in the public domain may enjoy copyright for one year after publication (Art. 759).

Copyright in manuscripts in public archives, academies, etc., belongs to the nation: they cannot be used without the consent of the Government (Arts. 851 and 852).

4. Rights granted

Copyright includes the right to publish, reproduce, translate or perform the work in public (Arts. 729, 731 and 765). Article 799, which sets out various acts which constitute infringement, also indicates the content of copyright. The author may reserve his

right of translation (Art. 751). The author has the right of making abstracts or abridgments, but the court may, if satisfied that it will be a new work or a work of general utility, authorize printing thereof by another person (Art. 756). In such a case, the author of the basic work is entitled to an indemnity of 15 to 30 percent of the net profits (Art. 757).

The Code contains no specific provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Article 805 sets out the various acts which do not constitute infringement. These include quotations, reproduction of extracts from articles published in magazines, etc., reproduction for the purpose of criticism or in books intended for educational establishments, publication of collections of works, performance of dramatic or musical works in private places, or places where no fee is charged or where the proceeds are devoted to benevolent purposes, translation of published works subject to certain restrictions, reproduction of works of sculpture, etc., which constitute a new work, or of works located in a public place and the application of artistic works as models for manufacture.

When the reproduction of a work is desirable and the owner fails to do so, the Government can reproduce the work or make the right available by public auction. This is subject to the payment of an indemnity and the observance of other conditions relating to expropriation of property (Art. 860).

6. Term of protection

The protection is available to the author for his life and to his heirs, who enjoy the right for a period of 30 years (Arts. 735 and 766). In the case of posthumous works of a known author who left no heirs or assigns, the publisher shall own the right for 30 years (Art. 740), while in the case of works published by academies and other scientific and literary establishments copyright subsists for 25 years (Art. 744). Works published by the Government pass into the public domain 10 years after publication but the Government may extend or shorten this period (Arts. 855 and 856). In the case of authors who do not reside in Nicaragua and who publish their works abroad, the right of translation can be reserved for 10 years (Art. 753).

The Code contains a rule or prescription for 10 years in the case of literary and artistic works and 4 years in the case of a dramatic performance (Art. 858).

In all these cases the period is counted from the date of the work and, if this is not indicated, from the 1st of January of the year following the publication (Art. 764).

7. Transfer of rights

Copyright is movable property (Art. 859). The author and his heirs have the right to transfer it, either for the duration of the right or for a shorter period (Arts. 736 and 737).

The rights of public performance in respect of dramatic and musical works are specifically dealt with in Articles 765 to 788. They also contain regulations relating to contracts of public performance.

8. Domaine public payant

No provisions.

9. Neighboring rights

The Code contains no specific provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from August 16, 1961.

Rio de Janeiro Copyright Convention, 1906, since 1909.

Buenos Aires Copyright Convention, 1910, since 1913.

Havana Copyright Convention, 1928, since 1934.

Washington Copyright Convention, 1946, since 1950.

12. Bilateral agreements

Copyright treaty with Spain (1934).

Copyright provisions in treaties with Italy (1906) and Spain (1975).

13. Applicability to foreigners not covered by conventions or agreements

Authors resident in other countries will be assimilated to Nicaraguan nationals, provided Nicaraguan nationals are assimilated to authors resident in the country where the work was published (Art. 865).

Nigeria

1. Official title and date of current legislation

Copyright Decree 1970, No. 61. Entry into force: December 24, 1970.

2. Works eligible for protection

General eligibility criteria

A literary, musical or artistic work is not eligible for copyright unless sufficient effort has been expended on making the work to give it an original character, and the work has been written down, recorded or otherwise reduced to material form, whether with or without consent (Sec. 1(2)).

Copyright is conferred on every work eligible for copyright which is either the subject of copyright conferred by virtue of nationality or domicile or first published or made (in the case of sound recordings) in Nigeria (Sec. 3(1)).

A work is deemed to have been published if copies of it have been made available in a manner sufficient to render the work accessible to the public (Sec. 19(2)(a)).

No formalities are required.

Special categories of works

Works eligible for copyright include literary, musical and artistic works, cinematograph films, sound recordings and broadcasts (Sec. 1(1)).

The term "works" includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which present an original character (Sec. 19(1)).

Artistic works include works of artistic craftsmanship and pictorial woven tissues and articles of applied handicraft and industrial art (Sec. 19(1)); however, an artistic work shall not be eligible for copyright if the work is intended by the author to be used as a model or pattern to be multiplied by any industrial process (Sec. 1(3)).

Literary works include law reports and enactments or other written laws (Sec. 19(1)).

The Decree contains no specific provisions on type faces, typographical arrangement or works of folklore.

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author. Where, however, a work is made in the course of the author's employment, or is commissioned by a person who is not the author's employer, the copyright is deemed to be transferred to the employer or the person who commissioned the work, as the case may be, subject to any agreement between the parties excluding or limiting such a transfer (Sec. 9(1)).

In the case of a cinematograph film or sound recording, the term "author" means the person by whom the arrangements for the making of the film or recording were undertaken (Sec. 19(1)).

Similarly, in the case of a broadcast (meaning sound or television broadcast by wireless telegraphy, or wire, or both, and including rebroadcast) transmitted from within any country, the term "author" means the person by whom the arrangements for the making of the transmission were undertaken (Sec. 19(1)).

4. Rights granted

Copyright in a literary, musical or artistic work, or in a cinematograph film, is the exclusive right to control the reproduction in any material form, the communication to the public and the broadcasting of the whole or a substantial part of the work

(Sec. 5(1)). Copyright in a sound recording is the exclusive right to control the direct or indirect reproduction of the whole or a substantial part of the recording (Sec. 7(1)). Copyright in a broadcast is the exclusive right to control the recording and the rebroadcasting of the whole or a substantial part of the broadcast, and, in the case of a television broadcast, also its communication to the public, in places where an admission fee is charged, and the taking of still photographs from it (Sec. 8(1) and (3)).

The Decree contains no specific provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Exceptions from the copyright control, listed in Schedule 2 of the Copyright Decree, include fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, educational broadcasting and other educational use, various kinds of non-commercial use in the public interest, ephemeral recordings, compulsory licenses for sound recordings and broadcasting, use in judicial proceedings, etc. These exceptions, provided for in respect of literary, musical or artistic works and cinematograph films, are in some cases also applicable to sound recordings or broadcasts.

See also under 10 below.

6. Term of protection

The term of copyright for literary, musical and artistic works (other than photographs) is 25 years after the death of the author, for cinematograph films and photographs after their first publication, for sound recordings after their making, and for broadcasts after they took place. The terms are calculated as from the end of the year in which each of the events took place (Sec. 2(2) and Schedule 1).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as movable property (Sec. 10(1)). An assignment or testamentary disposition may be limited to some only of the exclusive rights, or to a part of the period of the copyright, or to a specified country or other geographical area (Sec. 10(2)). No assignment or exclusive license is effective unless it is in writing (Sec. 10(3)).

An assignment or license granted by one copyright owner has effect as if granted by his co-owners also (Sec. 10(5)).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Decree contains no provisions on the protection of the rights of performers.

As for producers of phonograms and broadcasting organizations, see above.

10. Agencies set up under law and their function

A competent authority, consisting of 3 persons appointed by the Federal Commissioner for Trade, may — if a licensing body is unreasonably refusing to grant licenses or is imposing unreasonable terms and conditions — direct that a license shall be deemed to have been granted at the time the act in relation to a work with which the licensing body is concerned is done, if the appropriate fees fixed by the competent authority or prescribed by the Commissioner are paid (Sec. 13).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from February 14, 1962.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Works whose authors are not citizens of, or domiciled in, Nigeria are protected if first published or (in the case of sound recordings) made in Nigeria (Sec. 3(1)). See also under 2 above, second paragraph.

Norway

1. Official title and date of current legislation

Act Relating to Property Rights in Literary, Scientific or Artistic Works, No. 2 of May 12, 1961, as amended up to June 3, 1977.

Act on Rights in Photographic Pictures of June 17, 1960, as amended up to December 20, 1974.

2. Works eligible for protection

General eligibility criteria

A person who has created a scientific, literary or artistic work has copyright therein (Art. 1). The provisions of the Act apply to such works of persons who are nationals of, or who are permanently resident in, Norway and to works first made public in Norway (Art. 57).

No formalities are required.

Special categories of works

The protection of photographs is provided for in a special law (see under 1 above), which contains detailed provisions on the rights granted and their limitation. Translations and adaptations are protected; their authors may, however, not dispose of them in such a manner as to prejudice the copyright in the original work (Art. 4). Similarly, composite works are protected without prejudice to the rights in the individual works of which the composite work consists (Art. 5). Cinematographic works, pictorial woven tissues and articles of applied handi-

craft and industrial art are protected according to the general rules (Art. 1). Legal protection pursuant to the Design Act does not preclude copyright protection (Art. 10). Formularies, catalogues, tables and similar compilations of information may not be reproduced without the consent of the author for 10 years from the year of their publication (Art. 43).

The Act contains no specific provisions on type faces or works of folklore.

Works not protected

Statutes, administrative regulations, court decisions and other public documents are not protected by copyright (Art. 9).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the person who has created a literary or artistic work (Art. 1). The person whose name or generally known pseudonym, mark or symbol is stated in the usual manner is, in the absence of proof to the contrary, deemed to be the author; in the case of anonymous publications the editor or the publisher can act on behalf of the author (Art. 7).

If a work has 2 or more authors whose contributions do not constitute independent works, the copyright belongs to the authors jointly (Art. 6).

In the absence of an express agreement to the contrary, the right in a photographic picture made on commission belongs to the person who commissioned it (Phot.: Art. 10).

4. Rights granted

The *economic* (property) *rights* include the exclusive right of disposal over a work by producing copies thereof (including the recording of the work) and by making it available to the public in the original or altered form, in translations or in adaptations. A work is made available to the public by public performance or by having copies of it offered for sale, hire or loan, or otherwise distributed or publicly shown (Art. 2).

The *moral rights* include, in addition to the right to claim authorship, the right to oppose any change or any making available to the public in a form or context prejudicial to the author's scientific, literary or artistic reputation, or to his individuality (Art. 3).

A person who produces a photographic picture has the exclusive right to make copies thereof by photography, printing, drawing or other means, or to exhibit it publicly (Phot.: Art. 1). The photographer enjoys also moral rights (Phot.: Art. 2).

The Act contains no specific provisions on *droit de suite*.

5. Limitations on copyright

Uses permitted without payment

The following uses are permitted: to reproduce disseminated works in single copies, without purpose of gain, for private use (Art. 11) or to quote, in accor-

dance with proper usage, to the extent necessary for the purpose (Art. 13), to reproduce articles in newspapers and periodicals on current religious, political or economic topics (unless reproduction is expressly prohibited) as well as disseminated works of art in connection with the reporting of a news event (Art. 14), to make sound and video recordings of disseminated works for occasional use by schools in educational activities, subject to regulations issued by Royal Decree (Art. 16), to reproduce published works in braille (Art. 17), to perform published works (other than dramatic or cinematographic ones) at divine services and in connection with education, and where the performance is not arranged for purposes of gain or takes place during some particular gatherings (Art. 18) and to reproduce brief excerpts of works seen or heard in the course of current events (Art. 19). Similar limitations are provided for with regard to various uses of photographic pictures (Phot.: Arts. 5 to 9). Archives and libraries may be authorized by Royal Decree to make photographic reproductions of scientific, literary or artistic works (Art. 16) and copies of photographs for the purpose of their activities (Phot.: Art. 6). Ephemeral recordings are permitted under certain conditions (Art. 20). Deliberations in legislative or other assemblies or courts may be published (Art. 22). Works of art in public places may be included in films, television programs, etc. (Art. 23).

Uses permitted against payment (legal license)

If the State Broadcasting Corporation has an agreement with an organization representing a majority of Norwegian authors in a certain field on the right to broadcast works, it may, subject to payment of remuneration, broadcast also published works of authors not represented by the organization; this, however, does not apply to dramatic works nor to works for which the author personally has prohibited broadcasting or where there is special reason to assume that the author does not wish the work to be broadcast (Art. 20).

Disseminated works of art and photographs may be reproduced in connection with the text of a critical or scientific treatise (Art. 13; Phot.: Art. 8), and minor parts of a literary or musical work may be reproduced in a composite work designed for religious or educational use (Art. 15); in both cases authors are entitled to remuneration.

Sound and visual recordings may, under Article 16 and the regulations issued on December 23, 1977, be made by recording centers against payment of a fixed fee for each copy.

6. Term of protection

The general term of protection for economic rights is 50 years after the year in which the author died (Art. 40). In the case of anonymous works, the period of 50 years is from the year in which the work was first made available to the public (Art. 41). Photographs are protected for 15 years after the year in which the original owner died or, in the case of

photographs made by a corporate entity, 25 years after the year in which the photograph was published (Phot.: Art. 13).

The term of protection was extended by 6 years under the Law of December 2, 1955, as amended up to June 3, 1966; this extension was made applicable, by exchange of notes, to works of nationals of Austria, Brazil, France, Germany (Federal Republic of), Italy and Spain.

The provisions concerning moral rights (Art. 3) apply even if the period of protection has lapsed (Art. 48).

7. Transfer of rights

Copyright may, subject to the author's moral rights, be transferred entirely or partially (Art. 25). The Act contains some restrictions on public performance contracts which will normally be for only 3 years (Art. 30); it also contains detailed provisions on publishing contracts (Arts. 31 to 38) and film contracts (Art. 39); these provisions apply only in the absence of agreement to the contrary. If the contract contains manifestly unreasonable terms, relief may be claimed (Art. 27).

After the author's death, the rules governing matrimonial property and inheritance apply to copyright (Art. 28).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performance of literary or artistic works may not, without the consent of the performing artist, be recorded or broadcast directly or in any manner communicated to persons for whom it was not intended; the recorded performance must not be transferred from one instrument to another (Art. 42). Sound or video recordings of the performance may not be copied without the consent of the producer for 25 years (Art. 45). Rights in relation to broadcasting, by the State Broadcasting Corporation, of original and recorded works are set out in a separate Decree dated April 2, 1965.

Some of the limitations mentioned under 5 above apply also to neighboring rights.

Neighboring rights are protected only if the work is created by a Norwegian national or a person habitually resident in Norway, or a corporation with a Norwegian board and headquarters in the country (Art. 58).

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from January 28, 1963 (substantive provisions); Paris Act, 1971, as from June 13, 1974 (administrative provi-

sions). Declaration made under Article VI(1)(ii) of the Appendix to the Paris Act, with effect as from March 8, 1974.

Universal Copyright Convention, as revised in 1971, as from August 7, 1974.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from March 15, 1963.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 6(2) and 16(1)(a)(ii), (iii) and (iv), as from July 10, 1978.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from August 1, 1978.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), with reservations under Article 3(1), as from August 10, 1968.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from October 16, 1971.

12. Bilateral agreements

Copyright provisions in treaties with France (1881) and Thailand (1937).

See also under 6 above.

13. Applicability to foreigners not covered by conventions or agreements

On condition of reciprocity, the Government may provide for the application of the law in relation to other countries, or to published or unpublished works of international organizations (Art. 59; Phot.: Art. 19). The provisions relating to the use of a title, pseudonym or signature which may be confused with that of another work or author (Art. 46) and the protection of producers of sound recordings (Art. 45) apply to all works regardless of their origin (Arts. 57 and 58).

Pakistan

1. Official title and date of current legislation

The Copyright Ordinance, 1962, of June 2, 1962. Entry into force: February 27, 1967, as amended up to January 31, 1973.

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in respect of original literary, dramatic, musical and artistic works if:

- (a) in the case of a published work, the work is first published in Pakistan, or where the work is published outside Pakistan, the author is a citi-

zen of or is domiciled in Pakistan on the date of publication, or where the author is dead, on the date of his death;

- (b) in the case of an unpublished work other than an architectural work of art, the author is a citizen of or is domiciled in Pakistan on the date of making of the work;

- (c) in the case of an architectural work of art, the work is located in Pakistan (Sec. 10(2)).

These stipulations, however, do not apply to works originating or produced by a subject or citizen of or domiciled in, the countries party to either the Berne Convention or the Universal Copyright Convention to which the provisions of the Ordinance are extended by reasons of Pakistan's membership of above international Conventions, with some limitations, or works of certain international organizations (Secs. 53 and 54; International Copyright Order S. R. O. 709(k)/68 of March 13, 1968).

No formalities are required. However, a Register of Copyrights is required to be kept at the Copyright Office in which may be entered the names or titles of works and names and addresses of authors, publishers and owners of copyright. The author or publisher of, or the owner of copyright in any work may make an application for entering particulars of the work in the said Register (Secs. 38 and 39). The Register of Copyrights is *prima facie* evidence of the particulars entered therein (Sec. 42).

Special categories of works

Cinematographic works and records are protected to the same extent as literary, dramatic, musical or artistic works, except where the work or a substantial part thereof is an infringement of the copyright in any other work (Sec. 10(1) and (3)).

The publisher of an edition of a work enjoys, for a period of 25 years, the right to authorize the reproduction of the typographical arrangement of the edition by a photographic or similar process (Secs. 28 to 30).

Translations and adaptations of works are protected as original works (Sec. 3(1)(a)).

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of a work is the first owner of the copyright therein (Sec. 13). The term author is defined to mean: (i) in relation to a literary or dramatic work, the author of the work; (ii) in relation to a musical work, the composer; (iii) in relation to an artistic work, other than a photograph, the artist; (iv) in relation to a photograph, the person taking the photograph; (v) in relation to a cinematographic work, the owner of the work at the time of its completion; and (vi) in relation to a record, the owner of the original plate from which the record is made, at the time of making of the plate.

However, in the absence of any agreement to the contrary,

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, or periodical under a contract of service or apprenticeship, such proprietor shall be the owner of the copyright to the extent it relates to the publication or reproduction in any newspaper or periodical, but in all other respects the author shall be the owner of the copyright in the work;
- (b) in the case of a photograph, painting, portrait, engraving or a cinematograph film made for valuable consideration at the instance of a person, such person shall be the owner of copyright;
- (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, the employer shall be the owner of copyright;
- (d) in the case of a Government work, or work made or published under the direction or control of an international organization, the Government or, as the case may be, the international organization, shall be the owner of copyright (Sec. 13).

4. Rights granted

Economic rights

Copyright in a literary, dramatic or musical work includes the right to produce, reproduce, perform or publish the work or any translation or adaptation thereof or use it for making a record or a cinematographic work or for communication to the public by broadcast or otherwise. Appropriate rights in respect of authors of artistic works, cinematographic works and records are also recognized (Sec. 3).

Moral rights

The moral rights of the author to claim authorship or to object to distortion, mutilation or other modification which would be prejudicial to his honor or reputation have been recognized and protected (Sec. 62).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

Some of the acts that do not constitute an infringement are: (i) fair dealing for the purposes of private study, research, criticism or review, or for reporting current events in a newspaper or other periodical, or through broadcast, cinematograph film or photograph; (ii) reproduction by way of painting, drawing, engraving, or photography of works of sculpture or artistic craftsmanship permanently situated in a public place or of an architectural work of art;

(iii) publication in a collection, intended for use of educational institutions, of reasonable extracts from published works or reproduction or performance of works in connection with the activities of such institutions; (iv) reproduction for purposes of judicial proceedings or for the use of houses of legislature; (v) publication in a newspaper of a lecture, address, or sermon delivered in public, and reproduction in a newspaper, magazine or periodical of an article on current economic, political, social, or religious topics except when expressly prohibited by the author; (vi) making of a limited number of copies of any work in a public library by the librarian for the use of a library or reproduction for the purposes of research or private study of any unpublished work kept in a public library, museum or other institution to which the public has access, if it is made more than 50 years after the death of the author; (vii) causing of a record to be heard in public as part of the amenities provided in a hotel or club or to a limited non-paying audience; (viii) reproduction of any matter published in the official Gazette of Reports of Government Commissions or of judgments of courts unless prohibited (Sec. 57).

By virtue of the Copyright (Amendment) Ordinance, 1972, a new subsection (2A) to Section 10 of the Ordinance 1962 has been added whereby it has been provided that copyright does not subsist in any literary, dramatic, musical and artistic works as regards their reprint, translation, adaptation or publication by or under the authority of the Federal Government for purposes of teaching, study or research in educational institutions as textbooks.

Compulsory licenses

The Copyright Board (see under 10 below), upon receipt of a complaint that the owner of copyright in a work has refused to republish or allow republication or performance in public of the work or its communication to the public by radiodiffusion, or, in the case of a record, the work recorded in such record, on terms considered reasonable, may direct the grant to the complainant of a license to republish the work, perform the work in public, or communicate the work to the public by radiodiffusion, subject to payment to the copyright owner of such compensation as the Board may determine (Sec. 36).

Similarly, the Board also possesses the power to grant a license to produce and publish a translation of a literary or dramatic work in any Pakistani language or a language ordinarily used in Pakistan, provided it is proved to the satisfaction of the Board that a translation of the work has not been published by the owner of the copyright in the work or any person authorized by him within 7 years of the first publication of the work, or, if a translation has been so published, it has been out of print (Sec. 37).

6. Term of protection

In the case of works published within the lifetime of the author, copyright shall subsist till expiry of 50

years from the beginning of the calendar year next following the year in which the author dies (Sec. 18).

In the following cases, the term of protection is 50 years from the beginning of the calendar year next following the date of publication of the work: a cinematographic work, a record, a photograph, a posthumous work, an anonymous or pseudonymous work, or a work of Government or an international organization (Secs. 19 to 22).

7. Transfer of rights

Copyright is transferable and can be assigned in whole or in part for the whole term of copyright or for any part thereof, provided that, where the owner of the copyright in a work is the author of the work, no assignment of the copyright in the work or of any interest in such copyright shall be made, or if made shall be effective, for a period of more than 10 years (except where the assignment is made in favor of the Government or educational, charitable, religious or non-profit institutions). However, if an assignment of the copyright in a work is made in contravention of the proviso, the copyright in the work on the expiry of 10 years shall revert to the author for re-exploitation (Sec. 14).

8. Domaine public payant

No provisions.

9. Neighboring rights

Performers

The Ordinance contains no provisions on the protection of the rights of performers.

Producers of phonograms

Producers of phonograms are protected in respect of records in the same way as authors in respect of literary, dramatic or artistic works. This is subject only to the rights of the author of the work which is recorded.

Broadcasting organizations

Broadcasting organizations enjoy the right to authorize the rebroadcasting of their broadcasts, the fixation of their broadcasts, and the copying of fixations made of their broadcasts.

This right shall subsist for a period of 25 years from the beginning of the calendar year next following the year in which the broadcast took place (Sec. 24).

10. Agencies set up under law and their function

The Statute provides that there shall be a Copyright Office, which shall be under the immediate control of the Registrar of Copyrights, who shall act under the superintendence and direction of the Federal Government (Sec. 43).

A Copyright Board has been set up under the Ordinance to which disputes relating to copyright are referred to for adjudication. It acts as an appellate

authority against the orders of the Registrar. It has a chairman and not less than 3 and not more than 5 other members. The Registrar of Copyrights is, *ex officio*, a member of the Copyright Board (Secs. 45, 46 and 76). The Copyright Board also deals with matters such as grant of licenses to produce and publish translation of literary and dramatic works (Sec. 37), and republish the works withheld from public, subject to payment of royalties to the copyright owner as determined by the Board (Sec. 36). The Copyright Board shall also, on application of any aggrieved person, order the rectification or correction of any wrong entry or other error or defect in the Copyright Register maintained at the Copyright Office (Sec. 41).

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, as from July 5, 1948 (substantive provisions); Stockholm Act, 1971, as from January 29, 1970 (administrative provisions).

Universal Copyright Convention, 1952, as from September 16, 1955.

12. Bilateral agreements

Copyright provisions in treaty with the Federal Republic of Germany, 1950.

13. Applicability to foreigners not covered by conventions or agreements

Protection is not available to works of foreign origin except in respect of works of nationals from countries which are party to conventions to which Pakistan is a party (Sec. 54). Provision has been made in the law for issue of a notification by the Federal Government to specify the applicability of its provisions on the basis of reciprocity to the foreign works or works of certain international organizations (Secs. 53 and 54).

Panama

1. Official title and date of current legislation

Administrative Code, Part V (Arts. 1889 to 1966), of August 22, 1916.

2. Works eligible for protection

General eligibility criteria

Every production, which is the result of personal work or effort of intelligence, imagination or art, is protected as a literary or artistic work (Art. 1894), provided that it is given some specific form (Art. 1895). The benefits are available to all Panamanians who publish their works in Panama or abroad (Art. 1891).

To enjoy protection, a work must be entered in the Register of Literary and Artistic Copyright in the prescribed manner within one year of its publication. If this is not done, the work will pass into the public domain for 10 years. Thereafter the author or his heirs may recover the right by registering the work within one year, but they cannot prevent the sale of copies printed earlier (Arts. 1906, 1907, 1912 and 1915). The certificate of registration constitutes legal presumption of copyright (Art. 1913).

Special categories of works

Translations and abridgments are protected (Art. 1927). Any production of which the components taken from other authors have been selected with discernment (Art. 1894) and compilations of works and information from the public domain, if they involve some new work of method or coordination, are also protected (Art. 1930).

Folk songs are in the public domain, and any person who publishes them shall not have any exclusive right therein (Art. 1944); but a collection of folk songs or stories, which is the result of direct research on the part of the collector, will be protected (Art. 1931).

The law contains some special provisions with regard to reproduction of letters, manuscripts in public archives and busts or portraits of persons (Arts. 1919, 1932 and 1946).

The law contains no specific provisions on cinematographic or photographic works, works of applied art, designs, type faces or typographical arrangement.

Works not protected

Published parliamentary speeches, not being of a single author, and official documents and legal pleadings may be freely published (Arts. 1922 and 1941).

3. Beneficiaries of protection (copyright owners)

Any person who has produced an original work is considered to be the author who owns the rights recognized by the law (Art. 1890).

If an author is commissioned by a person to prepare a work for remuneration, that person will own the copyright in the work (Art. 1905).

A person who translates or abridges a work with the author's authorization enjoys the right in his translation or abridgment (Arts. 1927 and 1928).

A person who first publishes an unpublished work which has no owner is considered to be the author if he owns the manuscript thereof (Art. 1892). The State, corporations or legal entities also enjoy protection. (Art. 1893). Rights in respect of works produced in collaboration are regulated by Articles 1936 and 1937 and those in respect of newspapers in Article 1938.

In the case of anonymous and pseudonymous publications, the publisher may, in the capacity of transferee, exercise the rights of the author (Art. 1933).

Musical compositions based on themes or airs in the public domain are owned by the author or arranger thereof (Art. 1945).

4. Rights granted

Economic rights

The rights of copyright include the right of reproduction (Art. 1900), translation or abridgment (Art. 1925) and the right of public performance of dramatic or musical works (Art. 1942).

Moral rights

Moral rights are recognized; they include the right to prohibit alterations in the work (Art. 1904). Works in the public domain can be published only if the name of the author and the changes made are distinctly mentioned (Art. 1901).

Droit de suite

No provisions.

5. Limitations on copyright

The law permits quotations of passages from works (Art. 1923) and reproduction in collections for use in schools or for a definite literary purpose, unless specifically prohibited (Art. 1924). Productions published in newspapers can be published in other newspapers, subject to the indication of source (Art. 1939).

The works of a non-Panamanian author printed in non-Spanish-speaking countries may be freely translated, provided the name of the author is not omitted (Art. 1925).

6. Term of protection

The author of a literary or artistic work enjoys the right for his lifetime; thereafter, those who legitimately acquired it enjoy it for 80 years. But if the work is transferred to another person and the author dies leaving parents or children as heirs, the transferee will enjoy the protection only for 25 years after the death of the author, and thereupon the right will revert to the author's heirs for the remaining 55 years. If there are no such heirs, he will enjoy the rights for 80 years after the author's death (Arts. 1898 and 1903).

7. Transfer of rights

Copyright can be transferred as movable property (Art. 1902). A transfer cannot be enforced unless it is recorded in a public document and registered (Art. 1917). See also under 6 above.

8. Domaine public payant

No provisions.

9. Neighboring rights

The law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from October 17, 1962.

Rio de Janeiro Copyright Convention, 1906, since 1911.

Buenos Aires Copyright Convention, 1910, since 1913.

Havana Copyright Convention, 1928, since 1929.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from June 29, 1974.

12. Bilateral agreements

Copyright treaty with Spain, 1912.

13. Applicability to foreigners not covered by conventions or agreements

Nationals of any State whose law recognizes copyright of Panamanians may, by way of private action before competent courts, enjoy in Panama the rights granted by Panamanian law, without the need of any agreement or diplomatic action (Art. 1910). The Executive Authority is not permitted to conclude international treaties whereby translation rights could be reserved, except in relation to works in a foreign language printed in Spanish-speaking countries (Art. 1926).

In the case of foreign works originating in a Spanish-speaking country with which there is reciprocity, the protection in respect of the performance of dramatic and musical works applies only when the author expressly reserves his rights (Art. 1942).

Paraguay

1. Official title and date of current legislation

Law No. 94 concerning the Protection of Scientific, Literary and Artistic Works and the Establishment of the Public Register of Intellectual Rights, of July 5 and 10, 1951 (approving Decree-Law No. 3642 of March 31, 1951).

2. Works eligible for protection*General eligibility criteria*

Copyright protection is conferred on literary, scientific and artistic works capable of being published or reproduced, whether published or unpublished, which have been registered (Arts. 1, 4 and 5). Failure to register involves suspension of the protection of copyright (Art. 58). However, no such

registration is required for works published abroad which need comply only with the formalities required in the country of publication (Art. 47).

Special categories of works

The main categories of works protected are listed in Article 4. The list includes photographic and cinematographic works, choreographic works or pantomimes the arrangement of which is fixed in writing or otherwise, written or recorded versions of lectures, etc.

Translations and adaptations, compilations, arrangements and other versions are protected as original works, without prejudice to the rights of the author of the basic work (Art. 7).

The Law contains no specific provisions on works of applied art, designs, type faces, typographical arrangement or works of folklore.

Works not protected

Economic exploitation of a scientific work by way of commercialization of the ideas it contains is not protected (Art. 6). Speeches and lectures in official gatherings and the opinions of legal advisers of Government departments are in the public domain, but a compilation thereof requires authorization; laws, decrees and public regulations may be published in newspapers, periodicals or otherwise, provided the authenticity of the text is maintained; decisions of courts may be published if the publication does not prejudice the good reputation of the litigants; the Government and municipal bodies do not have any copyright in any publication of public interest relating to services, but such publications may not be reproduced without their authorization (Art. 17).

3. Beneficiaries of protection (copyright owners)

The author is the owner of the copyright (Art. 2). The person whose name or known pseudonym is indicated in a protected work is deemed to be the author in the absence of proof to the contrary (Art. 18).

A person who translates or adapts any work with the author's authorization owns the right in respect of such translation or adaptation (Art. 8). The translator's right is recognized only if the translation contract is registered (Art. 28).

Collaborators in a work enjoy equal rights therein, in the absence of agreement to the contrary (Art. 23).

Registered newspapers and periodicals own the rights in respect of unsigned articles, etc., published therein, but the authors can claim rights in respect of collections thereof. The authors of signed contributions have, unless otherwise agreed, all rights in respect of such contributions (Arts. 13 to 16).

The author of the plot, the composer and the producer of a cinematograph film are considered as collaborators and have equal rights. The producer, however, has the right to show the film, but without

prejudice to the rights of the other collaborators, including the mention of their names (Arts. 26 and 27).

4. Rights granted

Economic rights

Copyright includes the exclusive right of the author to use and authorize the use of the work, in whole or in part, and to dispose of that right (Art. 2). Such use includes publication in any form, public performance, recitation or exhibition, total or partial reproduction in any form, adaptation (including the mechanical recording), translation, diffusion by means of photography, television, broadcasting or by any other means, reproduction, adaptation or performance by means of cinematography, etc. (Art. 3).

Moral rights

A work may only be utilized with the title and in the form given to it by its author (Art. 9). The author retains, even after the transfer of his rights in the work, the right to require faithful adherence to its text and title and to the mention of his name or pseudonym (Art. 45).

Droit de suite

No provisions.

5. Limitations on copyright

The following acts do not constitute infringement: publication or reproduction, for educational or scientific purposes, of extracts from literary, scientific or artistic works and for commentaries and criticisms thereof (Art. 10); transmission of news items of general interest; reproduction of articles of current interest contained in periodicals, unless prohibited (Art. 12). In all cases, the source must be indicated.

Photographs, portraits or caricatures of a person cannot be used for commercial purposes without the authorization of the person concerned; their publication is free when it is associated with cultural purposes or events of public interest (Art. 29).

6. Term of protection

In general, the term of protection is the life of the author and 50 years after his death, or the death of the last surviving author in the case of joint works (Art. 19). In the case of posthumous works, the period of 50 years is counted from the death of the author, if there are heirs; but if there are no successors in title, copyright belongs for 15 years to the person who publishes the work with authorization (Art. 20).

For portraits, photographs, caricatures and letters the term is 15 years from the first publication. After 20 years from the death of the person concerned, publication is free (Art. 32).

7. Transfer of rights

The author of a work or his successor may transfer the copyright in whole or in part (Art. 43). All transfers must be registered (Art. 45).

Articles 33 to 36 prescribe the conditions regulating the publishing and performance contracts.

8. *Domaine public payant*

No provisions.

9. Neighboring rights

Performers have intellectual rights under the same terms and conditions as authors (Art. 37); they also have moral rights (Art. 41). Broadcast transmissions, cinematographic performance and performance by television, or any other means of mechanical reproduction, of a work shall be deemed to be performance of the work (Art. 38). Provisions have been made for payment of remuneration to performers whose performances are broadcast, etc., and for payment by them of the fees due to the authors of the works performed (Arts. 39 and 40). A performance in a theater may, without prejudice to the author's rights, be broadcast or transmitted by television with the consent of the manager (Art. 42).

The Law contains no specific provisions on the protection of the rights of producers of phonograms or broadcasting organizations. However, adaptations to instruments serving to reproduce works mechanically or electrically enjoy protection as original works (Arts. 3 and 7).

10. Agencies set up under law and their function

The Law established the *Registro Público de Derechos Intelectuales* [Public Register of Intellectual Rights] under the control of the Ministry of Education (Art. 49). Articles 50 to 60 and Decree No. 6609 of September 4, 1951, contain detailed provisions concerning the function of the Registrar, the procedure to be followed and the fees to be paid.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from March 11, 1962.

Montevideo Copyright Convention, 1889, since 1894; Paraguay accepted the accession of France (1900), Italy (1900), Spain (1900), Belgium (1903), Germany (1927), Austria (1928), Hungary (1931).

Buenos Aires Copyright Convention, 1910, since 1917.

Washington Copyright Convention, 1946, since 1949.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, as from February 26, 1970.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from February 13, 1979.

12. Bilateral agreements

Copyright treaty with Spain, 1925.

Copyright provisions in treaty with Mexico, 1958.

13. Applicability to foreigners not covered by conventions or agreements

Under Article 47, authors or works published abroad enjoy protection on proof of compliance with formalities in the country of publication. Article 48 regulates the term of protection in such works (comparison of terms).

Peru

1. Official title and date of current legislation

Copyright Law No. 13774, of September 1, 1961.

2. Works eligible for protection

General eligibility criteria

All creative works and productions of the human intellect in the literary, scientific and artistic domains enjoy protection under the Law, irrespective of the mode or form of expression (Art. 1).

The original ownership of copyright stems from the creation of the work, without any need for registration, deposit or any other formality (Art. 9).

Protection is available to authors who are Peruvian nationals or foreigners domiciled in Peru. Stateless persons will be regarded as nationals of the country of their habitual residence (Art. 6).

Registration in the National Register of Copyright is optional and creates presumption in certain cases (Arts. 79 and 80).

Special categories of works

The main categories of the protected works as listed in Article 7 include oral and written works.

Adaptations, translations or collections of works, choreographic works or pantomimes the acting form of which is fixed in writing or otherwise, photographs and cinematographic works are all protected as original works (Art. 7). Folklore is in the public domain (Art. 62), but written arrangements of folklore are protected (Art. 7).

Titles of works, jingles and slogans which are registered are protected according to Articles 60 and 61.

The Law contains no specific provisions on works of applied art, designs, type faces or typographical arrangement.

Works not protected

Legal texts, judgments and other writings emanating from public authorities are not protected, but repro-

ductions thereof must be faithful (Art. 64). Protection does not extend to the information contained in news items published by the press or diffused by radio or television, but the source must be stated (Art. 65). Lectures and speeches at public meetings or in deliberative assemblies, other than separate collections thereof, may be freely published (Art. 67).

3. Beneficiaries of protection (copyright owners)

In general, authors of works enjoy protection and the person whose name or known pseudonym is indicated upon the work, or who is announced as the author in public performances, is deemed to be the author (Art. 9).

In the case of works of collaboration which are indivisible, the rights belong jointly to the co-authors, in the absence of agreement to the contrary; in the case of collective works created under the direction of a person or a legal entity, such person or entity is the owner without prejudice to the individual rights, if any (Arts. 10 and 11).

The producer of a cinematographic work is the owner of copyright therein and is entitled to exercise the right of pecuniary utilization thereof (Art. 45); the rights of other collaborators are set out in Articles 46 to 49.

In the case of anonymous works, the publisher is deemed to be the owner of copyright unless and until the author reveals himself (Art. 12). A person who lawfully transforms, arranges or translates any work is the owner of copyright in the derived work (Art. 14). The State and other legal entities are owners of copyright in works commissioned by them and the State owns the copyright in manuscripts kept in libraries or archives (Art. 15). Any person who discovers in a public library or archive a document already in the public domain will have the right to publish it, under specified conditions (Art. 16).

4. Rights granted

Economic rights

The pecuniary rights are listed in Articles 35 to 42. They include the right to use the work in any manner: to publish it by means of distribution, broadcasting, performance or exhibition or to bring it to the knowledge of the public and diffuse it by any means; to reproduce the work by means of records, cinematography, photography or any other process capable of reproduction of sounds or images; and to transform the work by way of translation, adaptation, etc. (Art. 36). The scope and content of the right of the author in respect of phono-mechanical reproduction of his work are defined in Article 50.

Subject to compliance with certain formalities (copyright notice) in Article 58, a photographer has the right to reproduce, exhibit or publish his work, except when he produced it as an employee or when

it is a photograph of a work of art or has mere documentary character (Arts. 56 and 57).

Moral rights

The moral rights of the author are defined in Articles 32 to 34, and they include the right to decide on the publication of the work, to claim authorship and to oppose any mutilation, etc.

Droit de suite

Articles 92 and 93 provide for *droit de suite*. The author of any painting, sculpture or drawing is entitled to receive a percentage of any increase in value that the purchaser may receive upon the public resale of the work. The percentages are fixed by agreement.

5. Limitations on copyright

Articles 62 to 77 set out the cases in which, the circumstances under which and the conditions subject to which certain acts do not constitute infringement. Some of these are: reproduction of works for personal use; reproduction of extracts from works for cultural and non-commercial purposes; reproduction for use in judicial and administrative proceedings; reproduction of works of architecture by photography, cinematography or television or of works in museums or archives or situated in public places; performance of musical or dramatic works, recitation of literary works or any non-profit use of protected works in general to meet the needs of learning or teaching.

Provision has been made to enable the State to expropriate copyright in the public interest, subject to payment of compensation (Art. 63).

6. Term of protection

The author of a work has copyright protection for his life and his heirs or legatees for 50 years thereafter (Art. 21). In the case of works of collaboration, the period runs from the death of the last surviving author (Art. 25). If the rights have been transferred, they belong to the transferee or his successors for the life of the author and for 30 years thereafter (Art. 22). The State or other bodies corporate owning copyright enjoy it for 25 years (Art. 24). In the case of posthumous works, protection lasts for 30 years from the date of first publication (Art. 28), while in the case of an anonymous or pseudonymous work the publisher enjoys the right for 15 years from the date of first publication (Art. 30). In the case of photographic works not being part of a literary work, the period is 20 years, while in the case of cinematographic works the producer enjoys protection for 25 years from the first public showing (Arts. 26 and 27). In all these cases, the period is counted from January 1st of the succeeding year.

The moral rights may be asserted by the author's heirs, the Minister for Public Education or the professional association to which the author belonged, without limit of time (Art. 33).

7. Transfer of rights

Copyright is transmissible to heirs and legatees in accordance with the rules of civil law (but only up to the fourth degree) (Art. 84).

The author or his successors may transfer the right, wholly or in part, for the duration of the copyright (Art. 90). An agreement to transfer the entire future production of an author is null and void (Art. 3).

Articles 96 to 109 contain detailed provisions on publication contracts; Articles 110 to 122 contain rules on contracts for the diffusion of musical works and for public performance of works. Transfer of the right of phono-mechanical reproduction is regulated in Articles 51 to 55.

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The National Register of Copyright is created within the National Library (Art. 78). Its function is defined in Articles 79 to 83.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from October 16, 1963.

Montevideo Copyright Convention, 1889, since 1890.

Buenos Aires Copyright Convention, 1910, since 1920.

Caracas Copyright Agreement, 1911, since 1915.

12. Bilateral agreements

Copyright treaty with Spain, 1924.

Copyright provisions in the treaty with the Federal Republic of Germany, 1951.

13. Applicability to foreigners not covered by conventions or agreements

Foreign authors not domiciled in Peru are protected in accordance with the treaties to which Peru is a party or, where there is no such treaty, on the basis of reciprocity, in so far as this does not conflict with the Peruvian Law (Art. 6).

Philippines

1. Official title and date of current legislation

Decree on the Protection of Intellectual Property, No. 49, of November 14, 1972.

2. Works eligible for protection

General eligibility criteria

Protection is provided for various categories of works from the moment of their creation (Sec. 2).

Certain formalities, such as registration, notice, deposit, etc., have been prescribed by means of an Administrative Order dated September 18, 1947, which contains the Rules of Practice Relating to Registration of Copyright Claims.

Registration may be applied for by an author who is a citizen of or is domiciled in the Philippines or by his assignees, heirs, etc., as also by an alien author who is a citizen of a country which grants by treaty, convention, etc., to citizens of the Philippines the benefit of copyright on the same basis as to its own citizens; or by an alien author who is a citizen or subject of a foreign State which is a party to an international agreement providing for reciprocity in granting of copyright and to which the Philippines is a party (Rule 14 of Rules under the said Administrative Order).

All books, periodicals, lectures, sermons, addresses, dissertations and letters (Sec. 2(a), (b), (c) and (d)) have to be registered and 2 complete copies or reproductions of each are to be deposited with the National Library, without which a copyright owner shall not be entitled to recover damages in an infringement suit (Sec. 26).

Each copy of a work published or offered for sale must contain a notice bearing the name of the copyright owner and the year of first publication. Failure to comply with this requirement shall result in the limitation of remedies (Sec. 27).

Special categories of works

Cinematographic works and works produced by any process for making audiovisual recordings, as well as photographic works and works produced by a process analogous to photography, lantern slides and computer programs are included in the works protected (Sec. 2).

Choreographic works and entertainments in dumb shows are included if their acting form is fixed in writing or otherwise (Sec. 2).

Dramatizations, translations, adaptations, abridgments, arrangements and other alterations of literary, musical or artistic works, or collections of such works, are protected as new works when produced with the consent of the creator or proprietor of the original works on which they are based (Sec. 8).

Original ornamental designs or models for articles of manufacture, other works of applied art, drawings or plastic works of a scientific or technical

character are also included in the works protected (Sec. 2).

The Decree contains no provisions on type faces, typographical arrangement or works of folklore.

Works not protected

A work of the Government, that is, a work created by an officer or employee of the Government or of Government-owned corporations is not protected. However, permission of the Government is required if it is exploited for profit.

No prior permission is required for the use for any purpose of statutes, lectures, etc., pronounced or read in courts, before administrative agencies or in deliberative assemblies (Sec. 9).

3. Beneficiaries of protection (copyright owners)

The creator of a work or his heir or assign is the owner of copyright therein. If the work is produced by 2 or more persons, copyright belongs to them jointly (Sec. 6).

In the absence of any stipulation to the contrary: (i) where the work is commissioned by a person who is not the employer of the creator and who agrees to pay for it and the work is made in pursuance, that person shall be the joint owner with the author; (ii) where the work is made during and in the course of the creator's employment, the employer shall be the owner if the work is the result of the performance of regular duties; the employee shall be the owner if it is not so even if he uses the time, facilities and materials of the employer (Sec. 6); (iii) anonymous and pseudonymous writings shall be considered as the property of the publishers (Sec. 7).

The creators of a cinematographic or analogous work are the producer, the author of the scenario, the composer of the music, the film director, the photographic director, together with the author of the work adapted. In the absence of any contrary stipulation among the creators, the producer shall exercise the copyright required for exhibition of the work in any manner (Sec. 6).

4. Rights granted

Copyright includes the exclusive right to produce, reproduce, perform, or publish any work or any translation or adaptation thereof, or to exhibit, perform, or reproduce the work in any manner, and to make any other use of the work consistent with the laws (Sec. 5).

The author's moral rights include the right to make alterations of his work prior to, or to withhold it from, publication; to claim authorship of the work; to object to any alteration of his work which is prejudicial to his reputation; to restrain any distortion of his work (Sec. 34).

5. Limitations on copyright

When a work has been lawfully made accessible to the public, the author shall not be entitled to prohibit certain acts. Some of these include: fair dealing

for purposes of private study, research, criticism, information, or education or for reporting current events in a newspaper or periodical or through broadcasting, photography or cinematography; reproduction, recitation, performance, adaptation or translation for private use or for a religious or charitable purpose; publication, in any collection intended for educational or scientific purposes, of extracts from published works; taking photographic copies by lending for libraries, archives or museums for purposes of research or private study or for preservation; publishing translations of works in the national or local language under a non-exclusive license, if such works have not been published by the owner of the right within 5 years of publication of the original work (Secs. 10 to 14).

The Government has the power to authorize compulsory licensing or reprinting of educational, scientific or cultural works of nationals of domestic or foreign origin, whenever the price of such works is considered to have become so exorbitant as to be detrimental to the national interest (Presidential Decree No. 285 of September 3, 1973).

6. Term of protection

The term of protection is the life of the author plus 50 years (Sec. 21). In the case of posthumous works, the protection afforded to the heirs or assignees shall continue for 50 years after the death of the author (Sec. 23); for anonymous and pseudonymous works the period will be 50 years from the publication of the work (Sec. 22).

The term of protection in the case of newspapers, periodicals, works of applied art, cinematographic or photographic works and audiovisual recordings is 30 years (Sec. 24).

All terms are deemed to begin on January 1st of the year following the author's death or publication (Sec. 25).

Moral rights are perpetual (Sec. 39).

7. Transfer of rights

Copyright is transferable by gift, inheritance or assignment; it can be assigned either in whole or in part; no such assignment is valid unless it is in writing (Sec. 15); see also under 10 below. If 2 or more persons jointly own a copyright, neither shall be entitled to grant licenses without the consent of the other owner or owners (Sec. 18).

8. *Domaine public payant*

No provisions.

9. Neighboring rights

The Decree contains provisions on the protection of the rights of performers, producers of phonograms and broadcasting organizations (Chapter V).

Performers

Performers have the exclusive right to record or authorize the recording, to authorize the broadcast-

ing or to prohibit the reproduction of a recording of their performance if in the latter case the original recording itself was made without their consent or if the reproduction is made for purposes different from those for which the performers gave their consent (Sec. 42); performers may not, however, object to parts of their performance being used for reporting current events, or the entirety thereof when used solely for teaching or research (Sec. 44).

Producers of phonograms

Producers of phonograms have the exclusive right to authorize or prohibit the reproduction of their recordings (Sec. 46); when a sound recording is used with the intention of making or enhancing profit, the producer of the recording has the right to fair remuneration from the user (Sec. 47).

Broadcasting organizations

Broadcasting organizations have the exclusive right to relay by wire or to rebroadcast their broadcasts, to record their broadcasts and to use such records for fresh transmissions (Sec. 52); these do not include the right to prohibit recording of broadcasts for strictly private use or for teaching or research (Sec. 53).

10. Agencies set up under law and their function

Works have to be registered with the National Library (see under 2 above, fourth paragraph), which is also competent to register every assignment, license or other instrument relating to any right, title, or interest in a copyright. Any such instrument is considered void unless registered with the National Library (Sec. 19).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from August 1, 1951.

Universal Copyright Convention, 1952, as from November 19, 1955.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Protection of works of foreign nationals is available in respect of works of such authors who are citizens of countries which are not party to the conventions to which the Philippines is a party, but grant by law such protection to citizens of the Philippines (Rule 14 of Rules of Practice Relating to Registration of Copyright Claims issued by Administrative Order of September 18, 1947).

Poland

1. Official title and date of current legislation

Law No. 234 on Copyright, of July 10, 1952, as amended by Law No. 184, of October 23, 1975.

2. Works eligible for protection

General eligibility criteria

Copyright subsists in every literary, scientific or artistic work, in whatever form (Art. 1(1)).

Copyright also subsists in works not finally completed, such as plans, outlines, sketches, drawings, models and projects (Art. 4).

The Law applies to all works of Polish citizens and, irrespective of the citizenship of the author, to works first appearing in Poland or simultaneously in Poland and abroad, or first made public in the Polish language (Art. 6).

Special categories of works

Copyright is recognized in works of photography only if they bear an express reservation of copyright (Art. 2(1)). The year of the production of such a work must be indicated on negatives, copies and prints thereof (Art. 2(2)).

The year of the recording must be indicated on recordings made for mechanical instruments (Art. 2(2)).

If the date is not indicated, the protection will have effect against third parties only if they were aware that the copyright had not expired (Art. 2(3)).

Copyright also subsists in works based on the work of another person, such as translations, adaptations, transformations into another artistic medium, musical arrangements and adaptations for mechanical instruments, and films. Copyright in adaptations is subject to the authorization of the author of the original work; it ceases to be valid if the adaptation has not appeared within 5 years. The name of the author of the original work must be indicated (Art. 3).

The Law contains no provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Legislative and administrative decrees and decisions of courts and other public authorities, notices and forms of public authorities for public information, press information, reporters' photographs and designs intended for industrial use are not the subject of copyright (Art. 5(1) to (4)).

3. Beneficiaries of protection (copyright owners)

Unless otherwise provided for, the author is the person entitled to copyright (Art. 7(1)). When a work is published anonymously or under a pseudonym, the author is represented by the publisher (Art. 8).

Authors of collections of various kinds of works, or of annotated editions, are entitled to copyright if their work is of a creative nature, particularly with regard to the assembling, arrangement or selection of texts (Art. 9).

Copyright in a collective work as a whole (encyclopedias, dictionaries, yearbooks, etc.) or in a periodical belongs to the publisher, without prejudice to copyright in particular contributions of independent value (Art. 10). Joint authors own the copyright jointly (Art. 11(1)). Authors of combined works, such as music and words, are joint owners of rights therein, each of them retaining separate rights to his own part (Art. 11(2)).

The copyright in films and in adaptations of musical works for mechanical musical instruments belongs to the producer of the film or to the maker of the adaptation (Art. 13).

Artistic patterns for industrial use, projects, technical or architectural drawings prepared for industry or building and works for advertising or propaganda in the sphere of economic activity belong to the nationalized economic unit for which the author executed the work under a contract of employment or service or under a commission, without prejudice to the personal rights of the author (Art. 12(1)).

A scientific institution may publish a scientific work created by one of its employees under a contract of service or a commission within 2 years after the delivery of the work. It may also use the work for scientific documentation without permission of, and separate remuneration to, the author (Art. 14).

4. Rights granted

Economic rights

Copyright comprises the right to the exclusive disposal of the work and to remuneration for any use of the work (Art. 15(2) and (3)).

Moral rights

Copyright comprises the right to the protection of the personal rights of the author (Art. 15(1)). The personal rights of an author are infringed by appropriating the authorship, omitting the name of the author from the work published or performed, revealing the author's name against his will, not properly indicating the author or source when using extracts from a work in another work, making the work public against the author's intention, making changes in the work which distort its contents or form or diminish its value, as well as acting in any other way prejudicial to the interests of the author (Art. 52). The person to whom the property rights have been assigned may, however, make such alterations as are required by evident necessity, provided that the author has no justifiable reason to oppose such alterations (Art. 31).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

The following uses are permitted without payment: reproduction for personal use (Art. 22); reproduction in the press of current articles previously published in newspapers and periodicals on political, economic, scientific, technical and cultural subjects (Art. 18(1)); the printing of public speeches in periodicals or other publications devoted to such matters, without prejudice to the right of the author to publish a collection of his speeches (Art. 18(2)); the quoting for educational purposes of short passages of works or of entire brief works, if these were already made public (Art. 18(3)); the quoting in an audition, or in scientific or literary works, as well as in textbooks, of short passages of a musical work or of entire short works, if such works have already been published (Art. 19(1)); the giving of brief summaries of works already published or performed (Art. 18(5)); the lending of copies of a published work, or its delivery in lectures or recitations, provided no admission fee is charged (Art. 18(6)); the lending of copies of musical works, free performances for educational purposes or at social gatherings, if the performers receive no remuneration, or by musical societies exclusively for their members (Art. 19(2)); the use of brief extracts from a poetic work, or of entire brief poetic works already published, as lyrics for a new musical work (Art. 18(8)); the performing of works already made public, on the amateur stage and in community centers, houses of culture and clubs, provided no admission fee is charged (Arts. 18(7) and 19(3)); exhibition of works, provided no charge is made (Art. 20(1)); use for educational purposes of reproductions of works of fine art published or permanently exhibited (Art. 20(2)); the copying of works of art to which the public has access (Art. 20(3)); reproduction of photographic works by means of different processes (Art. 20(7)).

Free distribution of the works of others and quotations therefrom are permissible only if the source is explicitly mentioned and the work is not modified (Art. 21(1)); musical works may, however, be transposed into another key, voice or instrument, and dimensions of works of fine art may be modified as necessitated by the reproduction technique (Art. 21(2)).

A work possessing the characteristics of an independent creation, even though inspired by another work, is not considered an adaptation subject to authorization (Art. 3(4)).

Uses permitted against payment (legal license)

It is permitted to include in anthologies or chrestomathies works published in books or periodicals (Arts. 18(4) and 21(3)) and to disseminate published works by means of aural or visual aids, by wire or wireless, provided the author is remunerated according to the prevailing rates (Art. 23).

Other limitations

In the interest of propagating education and culture, the Council of Ministers may, without the consent of the author, permit the dissemination of the work in a prescribed manner and the adaptation thereof for the stage, screen or radio, giving the author a priority in carrying out the adaptation himself. In such cases, remuneration corresponding to the prevailing rates for authors' fees should be paid. During the author's lifetime such permission may be granted only regarding works already made public (Art. 16). The Council of Ministers may confer upon a social organization or a nationalized economic unit the exclusive right to publish certain or all works of an author (Art. 17).

The use of letters requires the authorization of the addressee, if his name will or may be revealed. For 10 years after the death of the addressee, the authorization of his spouse or children or, when such persons do not exist, that of the parents or collaterals is required (Art. 25).

6. Term of protection

The property rights of authors expire after a period of 25 years following: the year of the death of the author and, in the case of joint authorship, of the death of the author who died last; the year of the publication of a work published anonymously or under pseudonym, unless the author has previously revealed his name to the public, as well as in cases where the rights belong to a legal entity (Arts. 26 and 29).

The property rights expire, regarding photographic works, after a period of 10 years following the year of the first publication; regarding cinematographic, theatrical and choreographic works, after a period of 10 years following the year of the first public performance; regarding adaptation of a musical work for mechanical instruments, after 10 years following the year of the adaptation (Art. 27).

7. Transfer of rights

The property rights of the author may be assigned to other persons by means of written contracts (Art. 30).

Unless otherwise agreed, the author retains the exclusive control over the "secondary" rights (Art. 32).

The Law contains detailed rules governing publishing contracts (Arts. 34 to 45) and other contracts dealing with the dissemination of works (Arts. 46 to 51).

The Council of Ministers may fix the basis and rates of remuneration for authors, as well as model contracts (Art. 33 — see also Order of the Council of Ministers, No. 259, of September 9, 1972).

8. Domaine public payant

No provisions.

9. Neighboring rights

For the protection of producers of phonograms, see the provisions concerning copyright ownership in adaptations of musical works for mechanical instruments under 3 (Art. 13) and 6 above.

The Law contains no provisions on the protection of the rights of performers or broadcasting organizations.

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, as from November 21, 1935.

Universal Copyright Convention, as revised in 1971, as from March 9, 1977.

12. Bilateral agreements

Agreement on the Reciprocal Protection of Copyrights concluded with the Union of Soviet Socialist Republics. Date of signature: October 4, 1974.

Reciprocal protection on the basis of national treatment was granted by the Proclamation of the President of the United States of America and a corresponding note of the Minister of Poland to the Secretary of State of the USA, dated February 14, 1927.

13. Applicability to foreigners not covered by conventions or agreements

Copyright protection is also granted to foreigners upon the basis of reciprocity (Art. 6(4)).

General Studies

The Author's Place in Society and Legal Relations between Authors and those Responsible for Distributing their Works

Herman COHEN JEHORAM *

Calendar

WIPO Meetings

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

1978

December 4 to 8 (Geneva) — International Patent Classification (IPC) — Working Group III

December 18 to 22 (New Delhi) — Development Cooperation (Copyright) — Regional Seminar on Copyright and Neighboring Rights for Asian and Pacific States and territories (convened jointly with Unesco)

1979

January 29 to February 2 (Geneva) — International Patent Classification (IPC) — Committee of Experts

January 29 to February 2 (Geneva) — Subcommittee of the Intergovernmental Committee of the Rome Convention on the Implementation of the Convention (convened jointly with ILO and Unesco)

January 31 to February 5 (Pattaya) — Group of Experts on the Legal Protection of Inventions, Innovations and Know-How in the Countries of the ASEAN Region (organized jointly by WIPO and the Government of Thailand)

February 5 to 9 (Geneva) — Berne Union — Executive Committee (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

February 5 to 9 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information

February 12 to 14 (Geneva) — “PCT and Budapest Treaty” Working Group

February 14 to 16 (Geneva) — Madrid Union — Assembly and Conference of Representatives

February 26 to March 2 (Geneva) — Trademark Registration Treaty (TRT) — Interim Committee

March 5 to 9 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

March 5 to 9 (Geneva) — Development Cooperation (Industrial Property) — Working Group on the Model Law for Developing Countries on Inventions and Know-How

March 12 to 16 (Dakar) — Permanent Committee for Development Cooperation Related to Industrial Property

March 12 to 16 (Dakar) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights

March 20 to 30 (Geneva) — Revision of the Paris Convention — Provisional Steering Committee

April 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries

April 25 to May 1 (Geneva) — Patent Cooperation Treaty (PCT) — Assembly

April 30 to May 3 (Geneva) — Budapest Union (Microorganisms) — Interim Committee

May 1 to 4 (Geneva) — WIPO Budget Committee

May 28 to June 1 (Geneva) — Berne Union — Working Group on Problems Arising from the Use of Electronic Computers (convened jointly with Unesco)

June 11 to 15 (Paris) — Satellites Convention — Committee of Experts on Model Provisions for the Implementation of the Convention (convened jointly with Unesco)

June 11 to 15 (Geneva) — Nice Union — Preparatory Working Group

June 18 to 29 (Geneva) — Revision of the Paris Convention — Working Group on Conflict Between an Appellation of Origin and a Trademark

June 25 to 29 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information, and ICIREPAT Technical Committee for Standardization (TCST)

July 2 to 6 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions. (convened jointly with Unesco)

July 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information

July 9 to 12 (Geneva) — Paris Union — Meeting of Experts on Industrial Property Aspects of Consumer Protection

September 10 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

- September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lishon, Locarno, IPC, PCT 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 Lishon Union)**
- October 15 to 26 (Geneva) — Nice Union — Committee of Experts**
- October 18 and 19 (Geneva) — ICIREPAT — Plenary Committee**
- October 22 to 26 (Geneva) — Permanent Committee on Patent Information (PCPI), and PCT Committee for Technical Cooperation (PCT/CTC)**
- October 22 to 24 and 30 (Paris) — Berne Union — Executive Committee (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)**
- October 25, 26 and 31 (Paris) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)**
- November 26 to December 13 (?) (Madrid?) — Diplomatic Conference on Double Taxation of Copyright Royalties (convened jointly with Unesco)**
- November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software**
- December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- 1980**
- February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**

UPOV Meetings

- 1978**
- December 5 and 8 (Geneva) — Consultative Committee**
- December 6 to 8 (Geneva) — Council**
- 1979**
- January 30 to February 1 (Corsica) — Technical Working Party for Fruit Crops**
- March 26 to 28 (Geneva) — Technical Committee**
- April 24 and 25 (Geneva) — Administrative and Legal Committee**
- April 26 and 27 (Geneva) — Consultative Committee**
- May 21 to 23 (La Minière, France) — Technical Working Party for Agricultural Crops**
- June 5 to 7 (Avignon) — Technical Working Party for Vegetables**
- July 17 to 19 (Hanover) — Technical Working Party for Ornamental Plants**
- September 18 and 19 (Geneva) — Administrative and Legal Committee**
- September 25 to 27 (Wageningen) — Technical Working Party for Forest Trees**
- October 16 and 19 (Geneva) — Consultative Committee**
- October 17 to 19 (Geneva) — Council**
- November 12 to 14 (Geneva) — Technical Committee**
- November 15 and 16 (Geneva) — Administrative and Legal Committee**

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

- 1979**
- Non-Governmental Organizations**
- International Federations of Musicians (FIM) and of Actors (FIA)**
Symposium on the International Protection of Performers and of their Rights — January 10 to 12 (Geneva)
- International Writers Guild (IWG)**
Congress — May 21 to 25 (?) (Helsinki)

