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# Copyright

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Monthly Review of the  
World Intellectual Property Organization (WIPO)

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# World Intellectual Property Organization

## Member States of the World Intellectual Property Organization as on January 1, 1980

State		Date on which membership in WIPO took effect
Algeria . . . . .	P *	April 16, 1975
Australia . . . . .	P B **	August 10, 1972
Austria . . . . .	P B	August 11, 1973
Bahamas . . . . .	P B	January 4, 1977
Barbados . . . . .		October 5, 1979
Belgium . . . . .	P B	January 31, 1975
Benin . . . . .	P B	March 9, 1975
Brazil . . . . .	P B	March 20, 1975
Bulgaria . . . . .	P B	May 19, 1970
Burundi . . . . .	P	March 30, 1977
Byelorussian SSR . . . . .		April 26, 1970
Cameroon . . . . .	P B	November 3, 1973
Canada . . . . .	P B	June 26, 1970
Central African Republic . . . . .	P B	August 23, 1978
Chad . . . . .	P B	September 26, 1970
Chile . . . . .		June 25, 1975
Congo . . . . .	P B	December 2, 1975
Cuba . . . . .	P	March 27, 1975
Czechoslovakia . . . . .	P	December 22, 1970
Democratic People's Republic of Korea . . . . .		August 17, 1974
Denmark . . . . .	P B	April 26, 1970
Egypt . . . . .	P B	April 21, 1975
El Salvador . . . . .		September 18, 1979
Fiji . . . . .		March 11, 1972
Finland . . . . .	P B	September 8, 1970
France . . . . .	P B	October 18, 1974
Gabon . . . . .	P B	June 6, 1975
German Democratic Republic . . . . .	P B	April 26, 1970
Germany, Federal Republic of . . . . .	P B	September 19, 1970
Ghana . . . . .	P	June 12, 1976
Greece . . . . .	P B	March 4, 1976
Holy See . . . . .	P B	April 20, 1975
Hungary . . . . .	P B	April 26, 1970
India . . . . .		May 1, 1975
Indonesia . . . . .	P	December 18, 1979
Iraq . . . . .	P	January 21, 1976
Ireland . . . . .	P B	April 26, 1970
Israel . . . . .	P B	April 26, 1970
Italy . . . . .	P B	April 20, 1977
Ivory Coast . . . . .	P B	May 1, 1974
Jamaica . . . . .		December 25, 1978

\* "P" means that the State has ratified or acceded to at least the administrative provisions of the Stockholm Act (1967) of the *Paris Convention for the Protection of Industrial Property*.

\*\* "B" means that the State has ratified or acceded to at least the administrative provisions of the Stockholm Act (1967) or the Paris Act (1971) of the *Berne Convention for the Protection of Literary and Artistic Works*.

State			Date on which membership in WIPO took effect
Japan . . . . .	P	B	April 20, 1975
Jordan . . . . .	P		July 12, 1972
Kenya . . . . .	P		October 5, 1971
Libyan Arab Jamahiriya . . . . .	P	B	September 28, 1976
Liechtenstein . . . . .	P	B	May 21, 1972
Luxembourg . . . . .	P	B	March 19, 1975
Malawi . . . . .	P		June 11, 1970
Malta . . . . .	P	B	December 7, 1977
Mauritania . . . . .	P	B	September 17, 1976
Mauritius . . . . .	P		September 21, 1976
Mexico . . . . .	P	B	June 14, 1975
Monaco . . . . .	P	B	March 3, 1975
Mongolia . . . . .			February 28, 1979
Morocco . . . . .	P	B	July 27, 1971
Netherlands . . . . .	P	B	January 9, 1975
Niger . . . . .	P	B	May 18, 1975
Norway . . . . .	P	B	June 8, 1974
Pakistan . . . . .		B	January 6, 1977
Poland . . . . .	P		March 23, 1975
Portugal . . . . .	P	B	April 27, 1975
Qatar . . . . .			September 3, 1976
Republic of Korea . . . . .			March 1, 1979
Romania . . . . .	P	B	April 26, 1970
Senegal . . . . .	P	B	April 26, 1970
South Africa . . . . .	P	B	March 23, 1975
Soviet Union . . . . .	P		April 26, 1970
Spain . . . . .	P	B	April 26, 1970
Sri Lanka . . . . .	P	B	September 20, 1978
Sudan . . . . .			February 15, 1974
Suriname . . . . .	P	B	November 25, 1975
Sweden . . . . .	P	B	April 26, 1970
Switzerland . . . . .	P	B	April 26, 1970
Togo . . . . .	P	B	April 28, 1975
Tunisia . . . . .	P	B	November 28, 1975
Turkey . . . . .	P		May 12, 1976
Uganda . . . . .	P		October 18, 1973
Ukrainian SSR . . . . .			April 26, 1970
United Arab Emirates . . . . .			September 24, 1974
United Kingdom . . . . .	P	B	April 26, 1970
United States of America . . . . .	P		August 25, 1970
Upper Volta . . . . .	P	B	August 23, 1975
Uruguay . . . . .	P	B	December 21, 1979
Viet Nam <sup>1</sup> . . . . .	P		April 30, 1975
Yemen . . . . .			March 29, 1979
Yugoslavia . . . . .	P	B	October 11, 1973
Zaire . . . . .	P	B	January 28, 1975
Zambia . . . . .	P		May 14, 1977

(Total: 88 States) <sup>1</sup>

<sup>1</sup> The situation of Viet Nam in respect of the Convention Establishing the World Intellectual Property Organization is under examination.

## Membership of the Governing Bodies and other Organs of WIPO

On January 1, 1980, the membership of the Governing Bodies and other Organs of the World Intellectual Property Organization was as follows:

*General Assembly:* Algeria, Australia, Austria, Bahamas, Belgium, Benin, Brazil, Bulgaria, Burundi, Cameroon, Canada, Central African Republic, Chad, Chile, Congo, Cuba, Czechoslovakia, Denmark, Egypt, Fiji, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Holy See, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Malawi, Malta, Mauritania, Mauritius, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Pakistan, Poland, Portugal, Romania, Senegal, South Africa,<sup>1</sup> Soviet Union, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Upper Volta, Uruguay, Viet Nam, Yugoslavia, Zaire, Zambia (76).

*Conference:* The same States as above, with Barbados, Byelorussian SSR, Democratic People's Republic of Korea, El Salvador, Jamaica, Mongolia, Qatar, Republic of Korea, Sudan, Ukrainian SSR, United Arab Emirates, Yemen (88).

*Coordination Committee:* Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Cuba, Czechoslovakia, Egypt, El Salvador, Finland, France, German Democratic Republic, Germany (Federal Republic of), Haiti, Hungary, India, Italy, Ivory Coast, Japan, Mexico, Mongolia, Morocco, Nigeria, Philippines, Poland, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Switzerland, Tunisia, Turkey, United Kingdom, United States of America, Upper Volta, Uruguay, Yugoslavia, Zaire (43).

*Budget Committee:* Brazil, Cameroon, Canada, Cuba, Czechoslovakia, Egypt, France, Germany (Federal Republic of), India, Iraq, Japan, Soviet Union, Switzerland, United States of America (14).

*WIPO Headquarters Building Subcommittee:* Argentina, Cameroon, France, Germany (Federal Republic

of), Italy, Japan, Netherlands, Switzerland, Soviet Union, United States of America (10).

*Permanent Committee for Development Cooperation Related to Industrial Property:* Algeria, Australia, Austria, Benin, Brazil, Bulgaria, Cameroon, Canada, Chile, Congo, Cuba, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, India, Indonesia, Iraq, Israel, Italy, Ivory Coast, Japan, Jordan, Kenya, Libyan Arab Jamahiriya, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Netherlands, Niger, Norway, Pakistan, Poland, Portugal, Republic of Korea, Romania, Senegal, Soviet Union, Spain, Sudan, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United States of America, Upper Volta, Yemen, Yugoslavia, Zaire, Zambia (64).

*Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights:* Australia, Austria, Benin, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, Chile, Congo, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, India, Israel, Italy, Ivory Coast, Japan, Kenya, Malawi, Mauritius, Mexico, Morocco, Netherlands, Niger, Norway, Pakistan, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Sudan, Suriname, Sweden, Switzerland, Togo, United Kingdom, United States of America, Upper Volta, Yemen (48).

*Permanent Committee on Patent Information:* Algeria, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, Chad, Congo, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, Iran, Ireland, Israel, Italy, Japan, Kenya, Luxembourg, Madagascar, Malawi, Monaco, Netherlands, Norway, Philippines, Poland, Portugal, Romania, Senegal, Soviet Union, Spain, Suriname, Sweden, Switzerland, Togo, Trinidad and Tobago, Uganda, United Kingdom, United States of America, Upper Volta, Yugoslavia, Zambia, African Intellectual Property Organization, European Patent Organisation (55).

<sup>1</sup> According to a decision of the WIPO Coordination Committee, not to be invited "to any meeting of WIPO and its Bodies and Unions" (see *Copyright*, 1977, p. 296).

## Governing Bodies of WIPO and the Unions Administered by WIPO

### Tenth Series of Meetings

(Geneva, September 24 to October 2, 1979)

#### Note \*

During the tenth series of meetings of the Governing Bodies of the World Intellectual Property Organization (WIPO) and the Unions administered by WIPO, which took place in Geneva from September 24 to October 2, 1979, the following 20 bodies (hereinafter referred to as "the Governing Bodies") held their sessions:

- WIPO General Assembly, fifth session (4<sup>th</sup> ordinary),
- WIPO Conference, fourth session (4<sup>th</sup> ordinary),
- WIPO Coordination Committee, thirteenth session (10<sup>th</sup> ordinary),
- Paris Union Assembly, fourth session (4<sup>th</sup> ordinary),
- Paris Union Conference of Representatives, sixth session (4<sup>th</sup> ordinary),
- Paris Union Executive Committee, fifteenth session (15<sup>th</sup> ordinary),
- Berne Union Assembly, fourth session (4<sup>th</sup> ordinary),
- Berne Union Conference of Representatives, fourth session (4<sup>th</sup> ordinary),
- Berne Union Executive Committee, fifteenth session (11<sup>th</sup> ordinary),
- Madrid Union Assembly, tenth session (3<sup>rd</sup> ordinary),
- Madrid Union Committee of Directors, tenth session (3<sup>rd</sup> ordinary),
- Hague Union Assembly, fourth session (2<sup>nd</sup> ordinary),
- Hague Union Conference of Representatives, fourth session (2<sup>nd</sup> ordinary),
- Nice Union Assembly, fifth session (4<sup>th</sup> ordinary),
- Nice Union Conference of Representatives, fourth session (4<sup>th</sup> ordinary),
- Lisbon Union Assembly, third session (3<sup>rd</sup> ordinary),

- Lisbon Union Council, tenth session (10<sup>th</sup> ordinary),
- Locarno Union Assembly, fifth session (3<sup>rd</sup> ordinary),
- IPC [International Patent Classification] Union Assembly, third session (3<sup>rd</sup> ordinary),
- PCT [Patent Cooperation Treaty] Union Assembly, fourth session (2<sup>nd</sup> ordinary).

Eighty-one States, members of WIPO, the Paris Union or the Berne Union or of one or more of these, were represented at the tenth series of meetings. In addition, eight other States, eleven intergovernmental organizations and nine international non-governmental organizations sent observers. The list of participants follows this Note.

The tenth series of meetings of the Governing Bodies of WIPO and of the Unions administered by WIPO was convened by the Director General of WIPO, Dr. Arpad Bogsch (hereinafter referred to as "the Director General").

Each of the Governing Bodies elected its officers at the beginning of its session. As far as WIPO is concerned, the General Assembly, the Conference and the Coordination Committee elected Mr. Albrecht Krieger (Federal Republic of Germany), Mr. Alioune Sene (Senegal) and Mr. Gyula Pusztai (Hungary), respectively, as their new Chairmen. A list of the officers of the Governing Bodies of the various Unions is contained in the list of participants, below.

The main items discussed and the principal decisions taken by the Governing Bodies are reported on below.

#### Appointment of the Director General

On the basis of the nomination made by the WIPO Coordination Committee at its twelfth session, the WIPO General Assembly appointed Dr. Arpad Bogsch, unanimously and by acclamation, as the Director General of WIPO for a further period of six years.

\* This Note has been prepared by the International Bureau on the basis of the documents of the sessions of the Governing Bodies.

### Past Activities and Finances

The Governing Bodies reviewed reports by the Director General on the finances of the International Bureau in 1978, the accounts for 1976, 1977 and 1978 and the activities of the International Bureau from September 1976 to September 1979. The said reports, accounts and activities were approved by each of the Governing Bodies concerned.

Two proposals arising from the report on activities in 1979 were also approved. The first concerned a recent report by the United Nations Industrial Development Organization which advocated the setting up of an international patent documentation center; it was agreed that the WIPO Permanent Committee for Development Cooperation Related to Industrial Property be entrusted with the task of advising on any question concerning the problems of developing countries in patent examination, and that any duplication of WIPO's tasks in this field should be resisted. The second proposal concerned the tasks and composition of a committee of experts on joint inventive activity, which would advise on a guide containing questions, and possible solutions, which need to be regulated in international agreements of cooperation, relating to inventions made in the course of international joint ventures.

### Program and Budget Cycles

The Governing Bodies concerned decided to change from the existing system of triennial and annual programs and budgets to a system of biennial programs and budgets for WIPO and the nine Unions which have independent budgets (the Paris, PCT, Madrid, Hague, Lisbon, IPC, Nice, Locarno and Berne Unions).

### Working Languages

The Governing Bodies decided to extend the use of Arabic, Portuguese, Russian and Spanish as working languages of WIPO, mainly in the field of publications, and to the extent permitted by budgetary considerations. English and French remain the basic working languages.

### Program and Budget for 1980 and 1981

#### Copyright and Neighboring Rights Activities of Particular Interest to Developing Countries

The objective of these activities is to be useful to developing countries in respect of training specialists, creating or modernizing domestic legislation, stimulating creative activity, and facilitating access to foreign works protected by copyright owned by foreigners.

A substantial part of the activities of particular interest to developing countries proposed in the program is expected to be financed from extrabudgetary resources.

The International Bureau will continue its systematic, yearly training program for the training of government officials of developing countries, individually or in groups (in courses with pre-established curricula), in the law and the practical implications of copyright and neighboring rights. Training will generally take place in developed — market economy and Socialist — countries but, whenever possible, also in developing countries (acceding to the United Nations principles of development cooperation among developing countries).

The International Bureau will cooperate, on request, with individual governments or groups of governments of developing countries on the adoption of new laws and regulations, or the modernization of existing laws, in the fields of copyright and neighboring rights in order to ensure that they serve better their economic and social goals.

The International Bureau will furthermore cooperate, on request, with individual governments, groups of governments and associations of authors and publishers, in developing countries, on the practical measures which are available to them or may be organized for them in order to secure for them the maximum benefit from copyright protection in their countries and in foreign countries, and, consequently, the maximum encouragement for further creation and publication of their literary and artistic works.

Finally, the International Bureau will cooperate, on request, with the government of any developing country and with any other entity designated by such government, on the steps that must or may be taken where a work the copyright in which is owned by a foreigner is needed in that country for reproduction, translation or other use generally requiring the consent of the owner of the copyright. The cooperation will extend, in particular, to such questions as how to know whether any given work is under copyright protection and how to identify, locate and contact the (presumed) owner of the copyright; how to make sure whether the right to authorize the intended use of the work in the developing country belongs to the said owner or someone else; how to negotiate and conclude licensing contracts or purchase the copyright. The cooperation will take various other forms; for example: through individual or group training; through study missions abroad; through consultations between persons designated to that effect by the government of the developing country and staff or outside experts of the International Bureau; through national, regional or international seminars and workshops. Brochures containing general advice on some aspects of these matters will be prepared and published in various languages by the International

Bureau. The Governing Bodies noted with satisfaction that it was likely that WIPO and Unesco would agree on the establishment of a *joint* international service for the facilitation of access, by developing countries, to works under copyright protection, that that joint service would be counselled by a joint advisory committee and that, as a consequence of the existence of such a committee, the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights would no longer deal with the matter of access to protected works.

The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights will meet in Geneva in 1981.

#### **Promotion of the Acceptance of Copyright and Neighboring Rights Treaties**

The objective is to ensure that more countries (from among the 150 or so sovereign countries of the world) than at present become party to the treaties dealing with the international protection of copyright and neighboring rights.

A committee of experts might be convened to study the question of the measures that would seem to be needed in order to make it possible for the United States of America to accede to the Berne Convention. Should any other country outside the Berne Union express the wish that the committee of experts study the question of the measures that would seem to be needed to make it possible for that country to accede to the Berne Convention, the committee of experts will study that question too.

The International Bureau will continue its efforts to encourage as many States as possible to ratify or accede to the Berne Convention for the Protection of Literary and Artistic Works, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention), the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention) and the Vienna Agreement for the Protection of Type Faces and their International Deposit (not yet in force). For that purpose, the International Bureau will, among other things, publish documents analyzing the Berne Convention and the advantages of accepting it. A committee of governmental experts or a subcommittee of the Intergovernmental Committee established by the Rome Convention will meet to examine problems arising from the application and operation of the Rome Convention in the light of new communication techniques, and a regional seminar for African countries on neighboring rights will be held in an African country. The International Bureau will be at the dis-

posal of interested governments to give them individual advice on the domestic measures necessary for becoming party to the said Conventions and Agreement.

#### **Preparation for the Entry Into Force of New Treaties**

The objective is to ensure that governments preparing legislative action in their countries for the acceptance of the new Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties will have at their disposal the necessary documentation to support such action. (The Diplomatic Conference held late in 1979 has in the meantime adopted that Convention.)

The International Bureau will make every effort to encourage as many States as possible to ratify, accept or accede to that Convention. It will be at the disposal of governments to advise them on the domestic measures necessary for becoming party to the Convention. The Records of the said Diplomatic Conference will be established and published.

#### **Promotion of the Practical Application of Laws and Treaties in the Fields of Copyright and Neighboring Rights**

The objectives are to draw a clear picture, region by region, of the present situation of copyright and neighboring rights law and institutions in the various countries, such survey covering the state of legislation, the involvement of the government in the administration of such legislation, the role of authors' societies and other organized interest groups, statistics on works and their use, etc., to establish and disseminate a model statute for authors' societies, to study the relationship between copyright and computers and the copyright implications of cable television, to expose, and study the practical remedies against, various forms of piracy of intellectual property, and to study the best means of protecting works of folklore against abusive exploitation.

The International Bureau will carry out surveys of the practical administration and application of the copyright laws in two regions of the world, and the results of the first such survey will be published.

A committee of experts will meet to bring up to date and adopt the model statute for authors' societies prepared in 1969, and the new model statute will be published in two languages.

A committee of governmental experts will be convened to analyze further the impact of computer storage and retrieval of works protected by copyright on their protection and the possible need for express recognition of copyright protection for works created with the help of computers; it will be invited to formulate tentative recommendations applicable on the national and international levels.

A meeting of independent experts will be convened on the question of the copyright implications of cable television, particularly as concerns cinematographic works.

A worldwide forum on combating the piracy of phonograms, motion pictures and other audiovisual recordings will be held at WIPO headquarters. It will consider piracy particularly from the viewpoint of authors, record manufacturers, film producers, performing artists and the general public.

A working group consisting of specialists acting in their personal capacity will be convened to study the draft model provisions prepared by the International Bureau and intended for national legislation and international measures on the protection of works of folklore.

#### **Maintenance of Information Services in the Fields of Copyright and Neighboring Rights**

The International Bureau will continue to keep up-to-date its collection of the texts of laws and regulations of all countries of the world, and of all treaties dealing with copyright and neighboring rights, both in their original languages and in English and French translations. Relevant information and copies of these texts will be furnished on request to governments and the public, against payment of a fee, where appropriate.

Unesco plans to establish "a computerized documentation service for the purpose of establishing, for national authorities, specialists and interested circles, a data bank on legal theory, legislation and case law [which] will start operating on a selective basis in 1980." The International Bureau will offer its cooperation by furnishing input, in return of the possibility of using the data bank.

The monthly periodicals *Copyright* and *Le Droit d'auteur* will continue to be published. The part of *Le Droit d'auteur* containing texts of copyright and neighboring rights laws and treaties will also be available separately.

The Glossary of terms used in copyright law and the law of neighboring rights, published in 1979 with definitions in English, will be published with the definitions translated into four additional languages.

A guide, similar in scope to the Guide to the Berne Convention published in 1978, will be prepared in 1980 on the Rome Convention (Neighboring Rights) and the Geneva Convention (Phonograms). The guide will be printed and published in two languages.

The manuscript of a small brochure, tentatively entitled "Introduction to the Law of Copyright" and explaining the basic principles of copyright law, will be prepared; the brochure will be printed and published in two languages.

The International Bureau will continue to cooperate with, and to coordinate its activities with those of, other organizations of the United Nations system, particularly Unesco and the ILO.

#### **Industrial Property and Patent Information Activities**

The main features of the program and budget relating to industrial property and patent information activities are summarized in the January 1980 issue of *Industrial Property*.

#### **Budget**

The Governing Bodies concerned adopted the budgets for 1980 and 1981 (each year approximately 30,000,000 Swiss francs) corresponding to the programs outlined above.

#### **Contribution Systems**

The Governing Bodies decided that a study of the possible reform of the contribution system of WIPO and the Unions administered by WIPO should be started. The objective of the study is to find a solution according to which the burden of contributions will be more equitably distributed among the member States than it is under the present system. The study should concentrate on finding such a solution within the present multiple contribution system (that is, separate contributions for each Union and for States not members of any of the Unions but Members of WIPO). The solution should have the effect of increasing the difference between the share of those countries paying the highest percentage of contributions and the share of those countries paying the lowest percentage of contributions.

#### **South Africa**

Following the decision of the WIPO Coordination Committee in 1977, the Governing Bodies had on their agenda an item entitled "The exclusion of the racist régime of South Africa from any participation in meetings of WIPO and its bodies and Unions." After extensive discussions which lasted several days, the WIPO Conference voted on a proposal that "the WIPO Conference exclude from WIPO South Africa, which the United Nations has found to be flagrantly and persistently pursuing an official policy of racial discrimination in its legislation." Adoption of the proposal would have required a two-thirds majority. The proposal was voted upon in a secret ballot and was rejected by 37 votes in favor, 25 votes against and three abstentions. However, the decision made by the WIPO Coordination Committee in 1977 and according to which South Africa is not to be invited to any of the meetings of WIPO or the Unions administered by WIPO has not been repealed and will continue to be applied.

**Election of Members of the Executive Committees  
of the Paris and Berne Unions.  
Designation of Ad Hoc Members  
of the WIPO Coordination Committee**

**Election of the Executive Committees of the Paris and Berne Unions**

The Assembly of the Paris Union unanimously elected the following States as ordinary members of the Executive Committee of the Paris Union: Algeria, Australia, Brazil, Bulgaria, Cuba, Egypt, Finland, France, Germany (Federal Republic of), Italy, Ivory Coast, Japan, Morocco, Poland, Senegal, Soviet Union, United States of America, Uruguay, Yugoslavia (19). The Conference of Representatives of the Paris Union unanimously elected the following States as associate members of the Executive Committee of the Paris Union: Haiti, Nigeria, Philippines (3).

The Assembly of the Berne Union unanimously elected the following States as ordinary members of the Executive Committee of the Berne Union: Austria, Belgium, Cameroon, Canada, German Democratic Republic, Hungary, India, Mexico, Spain, Sri Lanka, Tunisia, United Kingdom, Upper Volta, Zaire (14). The Conference of Representatives of the Berne Union unanimously elected the following States as associate members of the Executive Committee of the Berne Union: Argentina, Czechoslovakia, Turkey (3).

Switzerland will continue to occupy its *ex officio* ordinary seat on the Executive Committees of the Paris and Berne Unions.

**Designation of Ad Hoc Members of the WIPO Coordination Committee**

The WIPO Conference unanimously designated the following States as ad hoc members of the WIPO Coordination Committee: El Salvador, Mongolia, Sudan (3).

**Composition of the WIPO Coordination Committee**

As a consequence of the elections of the Executive Committees of the Paris and Berne Unions, the designation of ad hoc members of the WIPO Coordination Committee and the taking into account of the *ex officio* ordinary seat of Switzerland, the following States are members of the WIPO Coordination Committee: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Cuba, Czechoslovakia, Egypt, El Salvador, Finland, France, German Democratic Republic, Germany (Federal Republic of), Haiti, Hungary, India, Italy, Ivory Coast, Japan, Mexico, Mongolia, Morocco, Nigeria, Philippines, Poland, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Switzerland, Tunisia, Turkey, United Kingdom, United States of America, Upper Volta, Uruguay, Yugoslavia, Zaire (43).

**List of Participants \***

**I. States**

**Algeria** 1, 2, 4, 12, 16, 18; H. Redouane; F. Bouzid; H. Bouhalila.  
**Angola:** A. Fernandes Junior.  
**Argentina** 3, 5, 9, 11; G.O. Martinez; N. Freyre Penabad; J. Pereira.  
**Australia** 1, 2, 3, 4, 8, 10, 16, 21; F.J. Smith; H.G. Shore; H. R. Freeman.  
**Austria** 1, 2, 3, 4, 8, 10, 12, 16, 21, 22; O. Lebert; R. Dittrich; M. Sajdik.  
**Belgium** 1, 2, 3, 4, 8, 10, 12, 14, 16, 21; H. van Houtte; J.-D. Rycx d'Huisnacht; J. Degavre; J.J.H. de Bock.

**Brazil** 1, 2, 3, 4, 6, 8, 21, 22; A.C. Bandeira; A.G. Bahadian; L.C. Oliveira da Cunha Lima; M.F.M. Arruda; G.R. Coaracy.  
**Bulgaria** 1, 2, 3, 4, 8, 10, 18; T. Ivanov; K. Iliev; L. Stoeva; I. Kotzeve.  
**Burundi** 1, 2, 4; T. Sanze; E. Rwamibango.  
**Byelorussian SSR** 2; V.A. Jouk.  
**Cameroon** 1, 2, 4, 8, 22; D. Ekani; H. Meva-Ondo.  
**Canada** 1, 2, 3, 4, 8, 10; D.E. Bond; R. Théberge; M. Leir.  
**Chile** 1, 2, 8; M. Trucco; L. Winter; P. Oyarce.  
**China:** Y.-C. Wu; T.-S. Tang; M.L. Li; Z. Wang; H. Kung.  
**Colombia:** J. Guerra de la Espriella; A. Gomez.  
**Cuba** 1, 2, 3, 4, 6, 18; F. Ortiz; A. Mata Salas.

\* A list containing the titles and functions of the participants may be obtained from the International Bureau.

- 1 WIPO General Assembly.
- 2 WIPO Conference.
- 3 WIPO Coordination Committee.
- 4 Paris Union Assembly.
- 5 Paris Union Conference of Representatives.
- 6 Ordinary member of the Paris Union Executive Committee.
- 7 Associate member of the Paris Union Executive Committee.
- 8 Berne Union Assembly.
- 9 Berne Union Conference of Representatives.

- 10 Ordinary member of the Berne Union Executive Committee.
- 11 Associate member of the Berne Union Executive Committee.
- 12 Madrid Union Assembly.
- 13 Madrid Union Committee of Directors.
- 14 Hague Union Assembly.
- 15 Hague Union Conference of Representatives.
- 16 Nice Union Assembly.
- 17 Nice Union Conference of Representatives.
- 18 Lisbon Union Assembly.
- 19 Lisbon Union Council.
- 20 Locarno Union Assembly.
- 21 IPC Union Assembly.
- 22 PCT Union Assembly.

- Czechoslovakia** 1, 2, 3, 4, 6, 9, 12, 16, 18, 20, 21: M. Bělohávek; J. Prošek; J. Čížek.
- Democratic People's Republic of Korea** 2: C.G. Chin; Z.R. Byon; K.W. Cho.
- Denmark** 1, 2, 4, 7, 16, 20, 21, 22: K. Skjødt; R. Carlsen; D. Simonsen; M. Wagtmann.
- Egypt** 1, 2, 4, 8, 12, 15, 21: A.M. Khalil; F. El Ibrashi; S.A. Salem; A. Elshahed; T. Dinana.
- El Salvador** 8: N.R. Monge Lopez; C.A. Barahona Rivas.
- Finland** 1, 2, 4, 8, 16, 20, 21: E. Wuori; A.-R. Ketokoski.
- France** 1, 2, 3, 4, 6, 8, 12, 14, 16, 18, 20, 21, 22: G. Vianès; A. Kerver; A. Némo; L. Nicodème; A. Tramoni-Veneraldi; R. Yung; R. Leclerc; P. Guérin.
- Gabon** 1, 2, 4, 8, 18, 22: P.J. N'Gouyou; R. Jaffres-Obembe.
- German Democratic Republic** 1, 2, 3, 4, 6, 8, 12, 15, 16, 20, 21: J. Hemmerling; D. Schack; K. Götz; O. Hugler; M. Förster.
- Germany (Federal Republic of)** 1, 2, 3, 4, 6, 8, 12, 14, 16, 21, 22: A. Krieger; E. Steup; U. Hallmann; G. Wirth; J. Wenzl.
- Ghana** 1, 2, 3, 4, 6: E. Vanderpuye; J.O. Eshun.
- Greece** 1, 2, 4, 8: G. Pilavachi; E. Danellis.
- Holy See** 1, 2, 4, 8, 15: O. Roulet.
- Honduras**: P.A. Garay Alvarado.
- Hungary** 1, 2, 3, 4, 8, 10, 12, 16, 18, 20: G. Pusztai; M. Ficsor; E. Tasnádi; A. Benárd; J. Bobrovsky.
- India** 1, 2, 3, 8, 10: P. Sabanayagam; D.N. Misra; S. Singh.
- Indonesia** 5, 15: C.D. Djavid; W. Martosewojo; B. Darmosutanto.
- Iran** 5: Y. Madani.
- Iraq** 1, 2, 3, 4, 6: A. Al-Badri; T. Salman; M.A. Hussein.
- Ireland** 1, 2, 3, 4, 6, 8, 16, 20, 21: M.J. Quinn; A. Anderson.
- Israel** 1, 2, 4, 8, 16, 18, 21: Y. Tsur; I. Eliashiv; Z. Peri.
- Italy** 1, 2, 3, 4, 9, 11, 12, 16, 18, 20, 21: I. Papini; S. Samperi; A. Sinagra; G. Aversa; M. Ferrara-Santamaria; R. Boros; G. Armento.
- Ivory Coast** 1, 2, 3, 4, 8, 10: A. Essy; G. Doh; C. Bouah; B.T. Aka.
- Japan** 1, 2, 3, 4, 6, 8, 21, 22: Y. Kawahara; T. Koyama; T. Ogiue; T. Nakamoto; S. Uemura; Y. Masuda; K. Hatakawa.
- Jordan** 1, 2, 4: W. Sadi; K. Abdul-Rahim.
- Kenya** 1, 2, 4: D. Coward.
- Libyan Arab Jamahiriya** 1, 2, 3, 4, 6, 8: A. Sergiwa.
- Liechtenstein** 1, 2, 4, 8, 12, 14, 16: A.F. de Gerliczy-Burian; M. Ledebur.
- Luxembourg** 1, 2, 4, 8, 12, 14, 16, 21, 22: J.-P. Hoffmann; J. Ancel-Lenners.
- Madagascar** 4, 9, 22: S. Rabearivelo.
- Mexico** 1, 2, 3, 4, 8, 10, 19: H. Diaz Thomé; V.C. Ramirez Lugo; N. Pizarro Macias.
- Monaco** 1, 2, 4, 8, 12, 14, 16, 21, 22: J.-M. Notari.
- Mongolia** 2: D. Munjdorzhin; G. Namsarain.
- Morocco** 1, 2, 3, 4, 8, 10, 12, 15, 16: A. Kandil.
- Netherlands** 1, 2, 4, 8, 12, 14, 16, 20, 21, 22: J. Dekker; R.H. Fein; E. van Weel; H.J.G. Pieters; E. Lukacs; R. Mulder; I.M. de Jong.
- Niger** 1, 2, 4, 8: M.A. Toumani.
- Nigeria** 3, 5, 7: O. Adeniji; F.J. Osemekeh.
- Norway** 1, 2, 4, 8, 16, 20, 21: A.G. Gerhardsen; S.H. Røer; N.O. Stava.
- Pakistan** 1, 2, 8: J.K.A. Marker; A. Hashmi.
- Panama**: M. Chen.
- Peru**: S. Kostritsky.
- Philippines** 3, 5, 7, 9: J. Palarca; M.T. Paterno.
- Poland** 1, 2, 3, 4, 9, 11, 17: R. Farfal; A. Olszówka; E.M. Szelchauz; B. Rokicki.
- Portugal** 1, 2, 4, 8, 13, 17, 19, 21: A. Carvalho; F. Mendes da Luz; J. de Freitas Branco; A.M. Pereira; R. Serrão; J. Mota Maia; A. Mendonca Moura.
- Qatar** 2: A.R. Al-Attia; J. Al-Boainain; M. Es-Sayyad.
- Republic of Korea** 2: J.-S. Han; N.-S. Won; S.-H. Kim; C.-J. Shin.
- Romania** 1, 2, 3, 4, 6, 8, 12, 22: G. Filipas; V. Tudor; R. Bena.
- San Marino** 5, 11: D. Thomas.
- Senegal** 1, 2, 4, 8, 22: A. Sene; N. Ndiaye; A. Diarra; B.P. Crespin; S. Koma.
- Somalia**: A.S. Osman; A.M. Ali-Noor.
- Soviet Union** 1, 2, 3, 4, 6, 12, 16, 20, 21, 22: I.S. Nayashkov; L. Kostikov; V. F. Zubarev; R. B. Shabanov; Y. A. Gyrdymov; K. Saenko; V. Poliakov.
- Spain** 1, 2, 3, 4, 8, 10, 12, 15, 16, 20, 21: A. Villalpando Martínez; J. Delicado Montero-Ríos; M. del Corral Beltrán; L. Magore.
- Sudan** 2, 3: O. Birido; C. Manyang d'Awol; M. Salih Abdalla.
- Sri Lanka** 1, 2, 3, 4, 8, 10: I.B. Fonseka; L. Naganathan.
- Sweden** 1, 2, 3, 4, 6, 8, 16, 20, 21, 22: G. Borggård; E. Cornell; C. Ugglä; A.H. Olsson; B.E.M. van der Giessen.
- Switzerland** 1, 2, 3, 4, 6, 8, 10, 12, 14, 16, 20, 21, 22: P. Braendli; J.-L. Marro; M. Jeanrenaud; F. Balleys; J.-M. Salamolard.
- Syria** 3, 5, 7: D.-A. El-Fattal; A. Hanna.
- Tanzania** 5: W.K. Chagula.
- Thailand** 9: S. Hiranprueck; B. Bunnag.
- Togo** 1, 2, 8, 18, 22: A.A. Wilson.
- Trinidad and Tobago** 5: P.J. Dass.
- Tunisia** 1, 2, 3, 4, 8, 10, 13, 15, 17, 18: B. Fathallah.
- Turkey** 1, 2, 4, 9: N. Yosmaoglu; E. Tümer.
- Ukrainian SSR** 2: V. Batiouk.
- United Arab Emirates** 2: A. Al-Suwaidi.
- United Kingdom** 1, 2, 3, 4, 6, 8, 16, 21, 22: I.J.G. Davis; R. Bowen; V. Tarnofsky; A. Holt; K. MacInnes; D. Cecil.
- United States of America** 1, 2, 3, 4, 6, 16, 20, 21, 22: H.J. Winter; S.A. Diamond; M.K. Kirk; L. Flacks; J.-A. McGrath; P.R. Keller.
- Upper Volta** 1, 2, 4, 8, 18: B.I. Bakyono.
- Uruguay** 5, 9: J. J. Real; C. Nadal.
- Venezuela**: J. J. Gomez Saenz.
- Yemen** 2: H. Almagbaly.
- Yugoslavia** 1, 2, 4, 8, 12, 16, 20: D. Bošković; D. Čemalović; M. Adanja.
- Zaire** 1, 2, 4, 8: K. Ludunge; E. Esaki-Kabeya.

## II. Intergovernmental Organizations

**United Nations (UN)**: S. Quijano-Caballero; T. S. Zoupanos; A. Djermakoye; D. Chudnovsky (UNCTAD); R. Tillette de Mautort (Unido). **International Labour Organisation (ILO)**: G. Bohère. **Food and Agriculture Organization of the United Nations (FAO)**: S. Akbil. **United Nations Educational, Scientific and Cultural Organization (UNESCO)**: A. Amri. **International Bank for Reconstruction and Development (World Bank)**: M. A. Burney. **Inter-Governmental Maritime Consultative Organization (IMCO)**: F. D. Masson. **Benelux Trademark Office—Benelux Designs Office**: L. J. M. van Bauwel. **Commission of the European Communities (CEC)**: C. Dufour. **Council for Mutual Economic Assistance (CMEA)**: I. Tcherviakov. **European Patent Organisation (EPO)**: J. C. A. Stachelin. **African Intellectual Property Organization (OAPI)**: D. Ekani.

## III. International Non-Governmental Organizations

**International Association of Conference Interpreters (AIIC)**: A. Chaves. **International Confederation of Societies of Authors and Composers (CISAC)**: J.-A. Ziegler. **International Copyright Society (INTERGU)**: G. Halla. **International Federation of Film Producers Associations (FIAPF)**: A. Brisson; S. F. Gronich. **International Federation of Producers of Phonograms and Videograms (IFPI)**: E. Thompson. **International Literary and Artistic Association (ALAI)**: J.-A. Ziegler. **International Organization for Standardization (ISO)**: R. W. Middleton. **International Publishers Association (IPA)**: J. A. Koutchoumow. **Union of European Practitioners in Industrial Property (UNEPA)**: G. E. Kirker.

#### IV. Officers

##### WIPO Conference

*Chairman:* A. Sene (Senegal). *Vice-Chairmen:* D. E. Bond (Canada); R. Farfal (Poland).

##### WIPO General Assembly

*Chairman:* A. Krieger (Germany (Federal Republic of)). *Vice-Chairmen:* D. Ekani (Cameroon); K. Iliev (Bulgaria).

##### Paris Union Assembly

*Chairman:* I. Nayashkov (Soviet Union). *Vice-Chairmen:* B. van der Giessen (Sweden); I. B. Fonseka (Sri Lanka).

##### Paris Union Conference of Representatives

*Chairman:* D.-A. El-Fattal (Syria). *Vice-Chairmen:* J. Palarca (Philippines); P. J. Dass (Trinidad and Tobago).

##### Berne Union Assembly

*Chairman:* P. Sabanayagam (India). *Vice-Chairmen:* J.-L. Marro (Switzerland); T. Ivanov (Bulgaria).

##### Berne Union Conference of Representatives

*Chairman:* M. Bělohávek (Czechoslovakia). *Vice-Chairmen:* S. Rabearivelo (Madagascar); J. J. Real (Uruguay).

##### WIPO Coordination Committee

*Chairman:* G. Pusztai (Hungary). *First Vice-Chairman:* A. C. Bandeira (Brazil). *Second Vice-Chairman:* F. J. Smith (Australia).

##### Paris Union Executive Committee

*Chairman:* G. Vianès (France). *Vice-Chairmen:* A. Al-Badri (Iraq); G. Filipas (Romania).

##### Berne Union Executive Committee

*Chairman:* M. del Corral Beltrán (Spain). *Vice-Chairmen:* A. Essy (Ivory Coast); M. Ficsor (Hungary).

##### Madrid Union Assembly

*Chairman:* O. Leberl (Austria). *Vice-Chairmen:* H. Redouane (Algeria); J.-P. Hoffmann (Luxembourg)

##### Madrid Union Committee of Directors

*Chairman:* A. de Carvalho (Portugal). *Vice-Chairmen:* D. Thomas (San Marino); B. Fathallah (Tunisia).

##### Hague Union Assembly

*Chairman:* J. Dekker (Netherlands). *Vice-Chairmen:* H. van Houtte (Belgium); ... (Suriname).

##### Hague Union Conference of Representatives

*Chairman:* F. El Ibrashi (Egypt). *Vice-Chairmen:* A. Villalpando Martínez (Spain); A. Kandil (Morocco).

##### Nice Union Assembly

*Chairman:* I. J. G. Davis (United Kingdom). *Vice-Chairmen:* K. Skjødt (Denmark); M. J. Quinn (Ireland).

##### Nice Union Conference of Representatives

*Chairman:* B. Fathallah (Tunisia). *Vice-Chairmen:* R. Farfal (Poland); ... (Lebanon).

##### Lisbon Union Assembly

*Chairman:* S. Samperi (Italy). *Vice-Chairmen:* A. Mata Salas (Cuba); T. M. Garango (Upper Volta).

##### Lisbon Union Council

*Chairman:* ... (Haiti). *Vice-Chairmen:* H. Diaz Thomé (Mexico); A. de Carvalho (Portugal).

##### Locarno Union Assembly

*Chairman:* J. Hemmerling (German Democratic Republic). *Vice-Chairmen:* D. Bošković (Yugoslavia); A. Gerhardsen (Norway).

##### IPC Union Assembly

*Chairman:* Y. Kawahara (Japan). *Vice-Chairmen:* E. Wuori (Finland); J. Hemmerling (German Democratic Republic).

##### PCT Union Assembly

*Chairman:* H. J. Winter (United States of America). *Vice-Chairmen:* ... (Congo); I. Nayashkov (Soviet Union).

*Secretary General:* G. Ledakis (WIPO).

#### V. International Bureau of WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); K.-L. Liguier-Laubhouet (*Deputy Director General*); F. A. Sviridov (*Deputy Director General*); C. Masouyé (*Director, Copyright and Public Information Department*); G. Ledakis (*Legal Counsel*); M. Pereyra (*Director, Administrative Division*); M. Porzio (*Director, Office of the Director General*).

## Diplomatic Conference on the Double Taxation of Copyright Royalties

(Madrid, November 26 to December 13, 1979)

### General Report

#### I. Introduction

1. In response to the generous invitation by the Government of Spain, the International Conference of States on the Double Taxation of Copyright Royalties Remitted from One Country to Another (hereinafter referred to as "the Conference") was held in Madrid from November 26 to December 13, 1979, at the *Palacio Nacional de Congresos y Exposiciones*.

#### Convening of the Conference

2. The Conference was convened jointly by the Directors General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), in accordance with decisions by their respective governing bodies.

#### Mandate of the Conference

3. The Conference, which had been prepared by three committees of governmental experts which met in 1975, 1976 and 1978, was invited to draft and adopt a Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, restricted to guiding principles, accompanied by a Model Bilateral Agreement, so as to govern measures to be taken to give practical effect to the principles in the said Convention, in respect of the relations between Contracting States.

#### Preparatory Documentation

4. The following documents were submitted for consideration by the Conference:

- (a) the Draft Multilateral Convention, and the Draft Protocol attached to that Convention, drawn up by the Third Committee of Governmental Experts which met in June 1978 (Annex A to document UNESCO/WIPO/CONFDT/3);
- (b) the Draft Final Provisions relating to the Convention prepared by the Secretariat of Unesco and the International Bureau of WIPO (document UNESCO/WIPO/CONFDT/4);

- (c) a commentary on the Draft of the Multilateral Convention and the Draft Protocol attached to it (document UNESCO/WIPO/CONFDT/5);
- (d) a Draft Model Bilateral Agreement (document UNESCO/WIPO/CONFDT/6);
- (e) a commentary on the Draft Model Bilateral Agreement (document UNESCO/WIPO/CONFDT/7);
- (f) observations received from governments on these documents (UNESCO/WIPO/CONFDT/8 and 8 Add.);
- (g) observations received from international non-governmental organizations on these documents (document UNESCO/WIPO/CONFDT/9).

5. In the preparation of the documents referred to in subparagraphs (c), (d) and (e), the Secretariat of Unesco and the International Bureau of WIPO were assisted by Professor Paul Marie Gaudemet, of the *Université de droit, d'économie et de sciences sociales de Paris II* (France). Professor Gaudemet also served as Consultant to the Secretariat of the Conference.

#### Participation

6. In accordance with Rule 1 of the Rules of Procedure adopted by the Conference, 44 of the States invited to the Conference by the Director-General of Unesco, on behalf of the Executive Board of Unesco, and by the Director General of WIPO, took part in the work of the Conference. These States were the following: Algeria, Angola, Argentina, Austria, Belgium, Brazil, Cameroon, Canada, Czechoslovakia, Chile, Colombia, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Holy See, Hungary, India, Iran, Iraq, Israel, Italy, Ivory Coast, Japan, Jordan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritania, Mexico, Morocco, Netherlands, Nigeria, Poland, Spain, Sweden, Switzerland, Tunisia, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay, Venezuela (44).

7. Observers from one intergovernmental organization (the Arab Educational, Cultural and Scientific Organization) and seven international non-governmental organizations were also represented at the Conference by observers. Provisional lists of par-

ticipants were distributed (UNESCO/WIPO/CONFDT/INF. 3 and 3 Add.). The complete list of participants is annexed to this general report.\*

#### **Organization of the Conference**

8. In accordance with Rule 14 of the Rules of Procedure adopted by the Conference, the plenary meetings and meetings of the Main Commission were held in public. The working languages of the Conference were Arabic, English, French, Russian and Spanish.

9. In accordance with Rule 30 of the Rules of Procedure, the secretariat of the Conference was provided jointly by the Director-General of Unesco and the Director General of WIPO, who appointed members of the staff of their respective Organizations to constitute the said secretariat. The names of the members of the Secretariat of the Conference are listed in the annex to this general report.

10. Miss Marie-Claude Dock (Unesco) and Mr. Claude Masouyé (WIPO) jointly carried out the duties of Secretary-General of the Conference and represented the Directors General of their respective Organizations.

11. Dr. Arpad Bogsch, Director General of WIPO, and Mr. Federico Mayor, Deputy Director-General of Unesco, attended the meeting of the Main Commission on November 29.

12. The Secretariat of the Conference had prepared a general information document for the participants (document UNESCO/WIPO/CONFDT/INF. 1). In addition, it proposed a work program for the Conference (document UNESCO/WIPO/CONFDT/INF. 2) which the latter adopted and, on the whole, adhered to.

13. The opening ceremony of the Conference took place on Monday, November 26, at 12 noon. The Conference held plenary meetings on the afternoon of the same day and on Tuesday, November 27, Monday, December 10 and Thursday, December 13. The Main Commission met from Wednesday, November 28 to Wednesday, December 5, and on Friday, December 7. The Credentials Committee met on Monday, November 26 and Monday, December 10. The Drafting Committee met on the afternoon of Wednesday, December 5 and on Thursday, December 6. The closing ceremony of the Conference, followed by the ceremony for signing the Convention and the Final Act, took place on Thursday, December 13. On this occasion, three States signed the Convention and 31 States signed the Final Act.

\* The list of participants will be published in the February issue of this review.

#### **Opening Session**

14. At the opening session of the Conference, inaugural speeches were delivered by His Excellency Mr. Clavero Arévalo, Minister of Culture of Spain, by Mr. Rodolfo Stavenhagen, Assistant Director-General of Unesco, on behalf of Mr. Amadou-Mahtar M'Bow, Director-General of Unesco, and by Mr. Claude Masouyé, Director of the Copyright and Public Information Department of WIPO, on behalf of Dr. Arpad Bogsch, Director General of WIPO. The texts of these speeches are reproduced in documents UNESCO/WIPO/CONFDT/INF. 4, 5 and 6, respectively.

15. Many eminent Spanish authorities honored this ceremony with their presence. During the course of the ceremony the Mayor of Madrid also addressed the participants.

#### **Election of the President of the Conference**

16. The Conference elected by acclamation His Excellency Ambassador Juan Luis Pan de Soraluce, head of the delegation of Spain, as its President.

#### **Credentials Committee**

17. In the plenary meeting the Conference then proceeded to elect the Credentials Committee, composed of the delegates of the following six States: Colombia, France, Ivory Coast, Japan, Union of Soviet Socialist Republics, Tunisia.

18. The Credentials Committee elected as its Chairman Dr. Tadao Araki (Japan). Mr. Shahid Alikhan (WIPO) and Mr. Abderrahmane Amri (Unesco) jointly carried out the duties of secretary.

19. The Credentials Committee submitted its first report to the plenary Conference on November 26 (document UNESCO/WIPO/CONFDT/CC/1) and presented its final report on December 10 (document UNESCO/WIPO/CONFDT/CC/2) which was supplemented orally on December 10 and 13. At the end of the work of the Conference, 11 States were empowered to sign the Convention and 44 States were empowered to sign the Final Act.

#### **Rules of Procedure of the Conference**

20. The Conference approved the Provisional Rules of Procedure submitted to it in document UNESCO/WIPO/CONFDT/2, deciding that the number of Vice-Presidents to be elected under Rule 5 should be four.

#### **Bureau of the Conference**

21. At the proposal of the President of the Conference, the heads of the delegations of Brazil, India, Iraq and the Union of Soviet Socialist Republics were unanimously elected Vice-Presidents of the Conference, and Mr. Pascal Bekolo Bekolo, head of the

delegation of Cameroon, was elected Rapporteur-General.

22. In accordance with Rule 8 of the Rules of Procedure, the Conference constituted itself as the Main Commission. The Main Commission unanimously elected Mr. Mihály Ficsor, head of the delegation of Hungary, as its Chairman, and the heads of the delegations of Mexico and of the Federal Republic of Germany as Vice-Chairmen. As is customary, the Rapporteur-General of the Conference also carried out the duties of Rapporteur of the Main Commission.

23. The officers referred to in the two preceding paragraphs, together with the President of the Conference, the Chairman of the Credentials Committee and the Chairman of the Drafting Committee constituted the Bureau of the Conference, in accordance with Rule 9 of the Rules of Procedure (see document UNESCO/WIPO/CONFDT/INF. 7).

#### Adoption of the Agenda

24. The provisional agenda contained in document UNESCO/WIPO/CONFDT/1 was adopted without change.

#### Drafting Committee

25. Pursuant to Rule 10 of the Rules of Procedure, the Conference unanimously elected the delegates of the following nine States as members of the Drafting Committee: Argentina, France, Germany (Federal Republic of), India, Iraq, Lebanon, Switzerland, Union of Soviet Socialist Republics, Uruguay. The delegation of Lebanon, who was unable to attend the meetings of this Committee, was supplemented, with the agreement of the other members of the Committee, by the delegate of Algeria. Further, the delegate of Egypt was admitted by the Drafting Committee to take part in its work as an observer.

26. The Drafting Committee elected as its Chairman Mr. André Kerever, head of the delegation of France.

27. On the basis of the deliberations at the plenary meetings of the Conference and at the Main Commission, and following the preliminary draft texts prepared by the Secretariat of the Conference, the Drafting Committee proceeded to put the draft texts into final form and transmitted them to the Main Commission (documents UNESCO/WIPO/CONFDT/10 and 11).

## II. General Debate

28. The Consultant recalled the manner in which the problem of the double taxation of copyright royalties arises in practice. By way of example, he cited the case of an author who has a book translated in a

foreign country and thereby becomes liable, in the country where the translation is made, to taxation at source of the royalties due to him for the translation, in addition to which in his country of residence he has to pay tax on the income represented by these royalties. As a result of this double taxation, coupled with the miscellaneous costs of collection and transfer, the author eventually receives only a negligible portion of the royalties originally due to him. The need to remedy this situation is, therefore, obvious, since it prejudices the legitimate interests of authors and also obstructs the free exchange of ideas and knowledge. To this end, the method of specific agreements concerning the double taxation of copyright royalties was chosen, although some would have preferred the method of general agreements, such as those for which OECD and the United Nations have prepared models.

29. Two basic reasons induced the three committees of experts, convened for this purpose, to choose the method of specific agreements:

- (a) it is easier to reach agreement on the taxation of copyright royalties alone, since the financial implications of this for States are exceptionally low;
- (b) owing to the irregularity of returns, their legal peculiarities, their intellectual origin and the place they occupy in the development of culture and education, these royalties cannot be assimilated to other forms of income. They require special protection.

30. Once the method of specific agreements had been selected, the choice between measures involving a multilateral instrument or bilateral agreements remained open. The Second Committee of Governmental Experts (1976), after noting that tax and copyright laws differed so widely that it was practically impossible to draw up a detailed multilateral convention, instructed the Secretariats of Unesco and WIPO to prepare a draft multilateral convention restricted to general principles and accompanied by a model bilateral agreement, drawn up in several alternative versions for submission to States by way of illustration.

31. This compromise solution was adopted by the Third Committee of Governmental Experts (1978), which drew up the draft texts that served as a basis for the work of the present Conference.

32. The draft Multilateral Convention has the following features:

- (a) it is a convention which is binding upon States, and not a mere recommendation;
- (b) its aims are set forth in a preamble, which stresses, *inter alia*, the need to find solutions that will facilitate access by developing coun-

tries to works of the mind; its adoption may be regarded as a form of development assistance;

- (c) the draft recognizes the equality of the right to tax of both the State of residence of the author and the State of source of the royalties. Since this situation creates cases of double taxation, an effort should be made to eliminate it either by means of domestic measures or by means of bilateral agreements.

33. The model bilateral agreement calls for the following comments:

- (a) it is broadly based on the model prepared under the auspices of OECD and the model drawn up under the auspices of the United Nations for conventions between developing and industrialized countries, and adapts them to the specific requirements of copyright royalties;
- (b) it includes several alternative versions, thereby allowing States to choose the solutions which they consider best suited to their respective legal systems;
- (c) it is presented by way of illustration, to assist those States which would like to conclude bilateral agreements specifically concerning copyright royalties, while leaving them free to adopt other types of agreement which they consider more appropriate.

34. The delegation of France recalled that, in 1974, it had drawn attention to the twofold originality of the instrument in question, namely, that it referred to the fiscal status of a single category of taxpayers, and that it had a multilateral character whereas, until then, approaches to the problem had been mainly bilateral. Nevertheless, the chief concern of the French delegation being to promote the creation and dissemination of works of the mind, it supported the draft multilateral convention, provided that certain amendments were incorporated in it and that the scope of the model bilateral agreement annexed by way of illustration were clarified.

35. The delegation of the United States of America, after agreeing with the need to combat the double taxation of copyright royalties, pointed out that its country could not endorse the approach embodied in a multilateral convention in the form proposed, since in its view such a convention would not relieve the tax burden of authors. Accordingly, it stated that it would refrain from participating in the discussion of the draft submitted to the Conference, since the Government of the United States preferred to confine itself to the established practice of bilateral agreements, although it was fully prepared, in the context of an otherwise satisfactory bilateral agreement to avoid double taxation and tax fraud, to consider especially generous rules for the taxation of copyright

royalties, in recognition of the special status of authors and their incomparable contribution to world culture.

36. The delegation of the Federal Republic of Germany pointed out that its country had long since concluded bilateral agreements to avoid double taxation and that its domestic legislation already included unilateral measures to eliminate it. It expressed the intention of its country to continue this way.

37. The delegation of the Union of Soviet Socialist Republics recalled that the double taxation of copyright royalties constituted an obstacle to cultural exchanges between nations while considerably reducing authors' incomes. Subject to reciprocity, copyright royalties were exempted at source in the Soviet Union. It favored the proposed multilateral approach, which also made it possible to take into account the situation of the developing countries.

38. The delegation of Hungary stressed the difficulties of this problem, which had exercised States for over half a century. These difficulties arose principally from contradictions between cultural requirements and fiscal needs, as well as from the different situations of particular countries. While noting that the proposed texts offered a compromise solution, it expressed the opinion that these constituted no more than a first stage in the action to combat the double taxation of copyright royalties. It therefore supported their adoption.

39. The delegation of Tunisia expressed its approval of the chosen approach and hoped that the texts before the Conference would be adopted.

40. The delegation of Sweden, while wishing the Conference every success, expressed a preference for the method of comprehensive bilateral agreements. In its view, a multilateral convention could be effective only to the extent that it recognized the need for bilateral agreements.

41. The delegation of Iran considered that the multilateral convention under consideration constituted a first step towards making a useful contribution of the problems involved.

42. The delegation of Cameroon offered its support to the draft multilateral convention, which had the twofold advantage of being objective and of being likely to assist the developing countries in their negotiations with the industrialized countries.

43. The delegation of Italy stated that it shared the views of the delegation of France, while considering it necessary to amend some of the provisions of the draft multilateral convention.

44. The delegation of Argentina recalled that its country had already taken domestic measures pending the adoption of a multilateral convention. It nevertheless recognized the usefulness of such a convention and suggested that a comparative study of copyright tax laws should be carried out by the Secretariats of Unesco and WIPO.

45. The delegation of Israel expressed its confidence in existing bilateral agreements. In its view, the present drafts were not entirely satisfactory but, like the delegation of Hungary, it considered that the draft texts should be regarded as a first step.

46. The delegation of the Netherlands voiced express reservations on the draft multilateral convention which, by furthering the interests of a specific group of taxpayers, ran counter to the principle of the equality of taxpayers in the matter of taxation. Furthermore, a convention of this kind would, in its view, institutionalize double taxation and could be a source of legal conflict. It affirmed its preference for comprehensive bilateral agreements and domestic measures. It considered that the right to levy tax of the country of residence should have priority, but allowed that the country of source could exercise a limited right to tax.

47. The delegation of Brazil stressed the compromise nature of the texts, which could lead to positive and practical results; it recalled that its country had already concluded numerous comprehensive bilateral agreements and expressed the opinion that the multilateral convention, supplemented by specific bilateral agreements, could prove useful by making it possible to strengthen the network of existing bilateral agreements and to facilitate cultural exchanges.

48. The delegation of Uruguay pointed out that in its country authors were not taxed on their royalties and that such exemption would be the ideal solution. Realizing, however, that not all countries could adopt this system, it gave its full support to the draft multilateral convention.

49. The delegation of Japan recognized that a multilateral convention could be useful as one of the means, but considered that from the fiscal point of view bilateral agreements, as entered into by Japan, were preferable, since they provided a more realistic solution to the problems posed by double taxation.

50. The delegation of Spain recalled that its country had already concluded numerous bilateral agreements and ardently hoped that the Conference would contribute to improving the machinery for combating the double taxation of copyright royalties.

51. The delegation of India welcomed the multilateral approach, accompanied by a model bilateral agreement, which it considered an acceptable initial step in the right direction.

52. The observer for the International Writers Guild recalled that high expressions had been aroused among authors when the decision had been taken to draw up a specific instrument to eliminate double taxation, which they regarded as unjust. However, he wished to convey their perplexity and disappointment at the texts submitted, which, on the one hand, seemed to institutionalize double taxation while, on the other, appeared powerless to eliminate it through lack of sufficiently binding provisions. He nevertheless expressed the hope of authors that the Conference might find solutions capable of eliminating the double taxation of copyright royalties, which in fact formed a very minor part of the budgetary resources of States.

### III. Provisions of the Multilateral Convention

#### *Title of the Convention*

53. After a brief discussion as to whether the adjective "international" should replace "multilateral," as proposed to describe the Convention, the Conference expressed a preference for the adjective "multilateral," which in its view provided a better contrast with the bilateral nature of the optional model agreement, as well as with existing general agreements.

#### *Preamble*

54. It was pointed out that the double taxation of copyright royalties referred to in the first paragraph of the preamble related to international double taxation, which could occur even in the absence of any transfer of royalties from one State to another. However, it was not deemed necessary to include this detail in the text of the preamble.

55. At the suggestion of the delegation of the Federal Republic of Germany, the word "works" in the first paragraph of the preamble was qualified by the expression "copyrighted" in order to avoid any ambiguity. The remaining paragraphs were adopted as submitted to the Conference, subject to minor drafting changes.

56. It was agreed that, although the second paragraph made no mention of the multilateral and regional agreements already concluded, this did not imply that their beneficial effects on measures to combat double taxation were not recognized.

#### *Article I: Copyright Royalties*

57. The delegation of the United Kingdom proposed that Articles I to IX of the text of the draft Convention should be replaced by a single article (document CONFDT/DR. 7) stating that the Contracting States

would make every effort to enter into bilateral agreements for the avoidance of double taxation of copyright royalties, or comprehensive bilateral agreements which included copyright royalties, and to undertake to adopt domestic measures for this purpose.

58. The delegation of the Federal Republic of Germany, supported by the delegations of Austria, Denmark, the Netherlands and Switzerland, endorsed the approach embodied in this proposal, but suggested that it should be amended by maintaining the articles on the definition of copyright royalties, the fiscal sovereignty of States and fiscal non-discrimination, together with the final clauses.

59. After a lengthy debate, this proposal was deemed too radical to be adopted.

60. A proposed amendment to paragraph 1 was presented by the delegation of Israel (document CONFDT/DR. 5), whereupon it was decided to refer, in the definition of a copyright work, to the definitions contained in the multilateral copyright conventions. It was agreed that this expression referred to the Berne Convention and the Universal Copyright Convention.

61. A proposed amendment presented by the delegation of Egypt (document CONFDT/DR. 11) to omit the reference in this article to "droit de suite" was not adopted. However, the explanations given in the Commentary on the Draft Multilateral Convention were recalled. "Droit de suite" means the right, recognized in some legislations, of the author of a plastic art work to receive part of the price when the material base of the work is resold. This right, which is not yet generally recognized and whose scope varies from one legislation to another, enables a painter or sculptor, for example, to benefit from part of the additional value acquired by his work after it has left his possession. It prevents art dealers and collectors from being the sole beneficiaries of the increase in the value of a work after its author has sold it. It appeared that, where this right was recognized for the authors, it should be exempt from double taxation on the same basis as copyright royalties, to which it should be assimilated. That is why payments in respect of the "droit de suite" have been expressly included in the scope of the Convention.

62. It was further decided to replace the expression "the Contracting State in which the royalties arise" in paragraphs 1 and 2 by the phrase "the Contracting State in which these royalties are originally due," it being understood that this State is the State in which the exploitation or use of the work takes place and that this phrase is not intended to designate the State of residence of the author. On a clarification sought by the delegation of India concerning the use of the expressions "payments of any kind" and "royalties

due" in the said paragraphs 1 and 2, it was agreed that the Contracting States may make an interpretative declaration on the definition of copyright royalties at the time of signing and ratifying or acceding to the Convention.

63. It was also understood that the exclusion of royalties due in respect of the exploitation of cinematographic works, appearing in paragraph 2, referred to royalties due to the producer of such works as the original owner or by virtue of a presumed transfer of copyright, the authors and in particular the composers of musical scores retaining, in the absence of any transfer of rights, the benefits of the Convention.

#### *Article 2: Beneficiary of Copyright Royalties*

64. Several delegations asked that the term "beneficiary" be taken to include societies of authors and bodies responsible for collecting copyright royalties. There being differences of opinion on this subject, the delegation of France recalled that States were entitled to make interpretative statements, so that societies of authors could avail themselves of the benefits of this Convention.

65. It was understood that the term "beneficiary" applied to all authors, whether individuals or legal entities, as well as to their heirs or successors in title. Furthermore, the wording of this article was modified to exclude any mention of representatives or agents, since their status as "beneficiaries" was not generally recognized and several delegations expressed the view that any intermediary exercising purely commercial activities should not be entitled to protection under the Convention. It therefore seemed preferable to refer to any other relevant criterion as agreed to in a bilateral agreement.

#### *Article 3: State of Residence of the Beneficiary*

66. The delegation of Egypt pointed out that the wording of this article implied that the beneficiary of copyright royalties could be a legal entity. It recalled that, as in the case of the previous article, it wished legal entities, and more particularly commercial companies, to be excluded from protection under the Convention.

67. It transpired, however, that legal entities could be copyright holders and, therefore, enjoy protection under the Convention. Should a State wish to exclude them, it was entitled to enter a reservation to that effect.

68. However broad the concept of resident in Article 3 might be, it nevertheless had limitations. The second sentence of paragraph 2 expressly refused the status of resident of a State to persons subject only to partial taxation limited to taxes whose source was in that State or to capital owned there. That

situation was to be found in certain States in respect of individuals.

69. The definition of resident given in Article 3 was so broad that its application might lead in certain cases to a person being recognized as being resident of several States. Such a situation could hamper the implementation of the Convention in the bilateral relations between States both having the status of State of residence. But technical provisions permitted the determination in that case of the State to be considered as the sole State of residence. These provisions are included in Article IV of the Model Bilateral Agreement annexed to the Multilateral Convention.

#### *Article 4: State of Source of Royalties*

70. The Conference had a choice between two alternatives, the first of which was based on the criterion of the place in which the work was used and the second on the place of establishment of the debtor responsible for the royalties. The text finally adopted was drawn up on the basis of proposed amendments presented by the delegations of France and Italy (document CONFDT/DR. 2) and Brazil (document CONFDT/DR. 6). The delegation of the Union of Soviet Socialist Republics, which had presented proposed amendments in document CONFDT/DR. 3, endorsed this text.

71. This text qualifies the criteria of Alternative B by adding phrases from Alternative A, to the effect that royalties are due for the use of, or the right to use, a copyright in a literary, artistic or scientific work.

72. In addition, the term "installation" was replaced by the more usual expression "permanent establishment" or "fixed base." In this respect, the proposed amendment presented by the delegation of Egypt (document CONFDT/DR. 11) was adopted in part, to the extent that the expression "fixed base" was included in the text of the Article. On the other hand, the delegation of Egypt could not endorse the reference to a "permanent establishment" which implied, in its view, a commercial character.

73. The delegation of the United Kingdom, for its part, regretted that the expressions "permanent establishment" and "fixed base" were not defined in the Convention and that these definitions were included only in Article V of the Model Bilateral Agreement.

#### *Article 5: Fiscal Sovereignty and Equality of Rights of States*

74. Article 5 as it appeared in the draft submitted to the Conference simply stated that any action against double taxation of copyright royalties should respect the sovereignty of States in fiscal matters.

75. The delegation of Switzerland presented an amendment (document CONFDT/DR. 4) suggesting the deletion of this Article, which it considered to be in conflict with the action taken against double taxation under bilateral agreements whose effect was to limit fiscal sovereignty. This proposal was supported by the delegations of Algeria and Italy.

76. The delegation of France pointed out that, on the contrary, this deletion might accentuate the compulsory nature of the Convention. The Convention placed no obligations on States other than those deriving from Article 8 (Article IX of the draft). The delegation of France also drew attention to the link between the provisions of Articles V and VII of the draft, in respect of which, together with the delegation of Italy, it had presented a proposed amendment (document CONFDT/DR. 2).

77. The delegation of Hungary proposed that the principle of the fiscal sovereignty of States should be included in the preamble.

78. The delegation of the Union of Soviet Socialist Republics considered it necessary to affirm the principle of the fiscal sovereignty of States and supported the Hungarian proposal. It suggested that the principle could be included either in the preamble or in Article 8 (Article IX of the draft).

79. The Chairman of the Main Commission noted that Article 5 was indeed linked to Article VII of the draft, to which proposed amendments had been presented by the delegations of Argentina, Uruguay and Venezuela (document CONFDT/DR. 1), France and Italy (document CONFDT/DR. 2) and the Union of Soviet Socialist Republics (document CONFDT/DR. 14), together with a proposal for merger with Article VII presented by the delegations of Switzerland, Israel and Italy (document CONFDT/DR. 13).

80. The amendment proposed in DR. 1 was intended to formulate Article VII in such a way as to eliminate the argument that it institutionalized double taxation. It also stressed the fact that the objective of the Convention was to apply Article 8 (Article IX of the draft), which was designed to eliminate or reduce double taxation.

81. DR. 14 proposed that the wording of DR. 1 should be adopted and that the Article should be included in the chapter concerning the implementation of the guiding principles for the action against double taxation.

82. DR. 2 proposed major modifications in the original text. The first amendment accorded priority in the taxation of copyright royalties to the State of residence. In support of this amendment, the delegations of France and Italy had argued that this provision would avoid appearing to institutionalize double

taxation of copyright royalties, that it would constitute a better defense of the interests of authors, that it would enshrine a practice followed in the bilateral agreements already adopted, and that it would not prejudice the results of the work being carried out under the auspices of the United Nations for the preparation of a model comprehensive bilateral agreement against double taxation in the relations between developed and developing countries.

83. The first amendment gave rise to objections on the part of the delegation of Egypt, which recalled that the principle of the equality of the right to tax of the State of residence and the State of source had been adopted by the Third Committee of Governmental Experts, a principle which the proposals in documents CONFDT/DR. 11 and 15 sought to confirm and which was retained in Article 5.

84. The Chairman of the Main Commission stated that a debate should not be opened on the choice between the State of source and the State of residence in respect of the taxation of copyright royalties. He stressed the fact that the second amendment presented by the delegations of France and Italy (document CONFDT/DR. 2) was very similar to that proposed in DR. 1 and deserved to be adopted.

85. The final version of Article 5 incorporated Article VII of the draft, in accordance with the proposal by the delegations of Switzerland, Israel and Italy (document CONFDT/DR. 13).

86. It was also agreed to include in the new text of Article 5, which specified the conditions under which action against double taxation would be carried out, three basic ideas: (a) this action should be carried out in accordance with the provisions of Article 8 (Article IX of the draft) which defined the scope of the commitment entered into by States under the Convention; (b) it should respect the fiscal sovereignty of the State of source and the State of residence; (c) it should respect the equality of the right to tax of both States.

87. During consideration of this Article in the form produced by the Drafting Committee, the delegation of France submitted a proposed amendment as contained in document CONFDT/DR. 23. This proposal, after recognizing the principle of respect for the fiscal sovereignty of the State of source and the State of residence, pointed out that the Convention shall not preclude the issue of whether copyright royalties were to be taxed in one or other of these States, or in both. Since this proposal was withdrawn, it was not discussed. The reasons for its withdrawal were subsequently explained by the French delegation in a statement covering the draft Convention as a whole (see below).

#### *Article 6: Fiscal Non-Discrimination*

88. This Article was accepted without debate. It affirms one of the oldest principles of international tax law, and is simply a corollary of the general principle of tax equality that itself has its source in the primary requirements of fiscal justice. The list of cases of discrimination given in this Article is not exhaustive, but is merely illustrative.

#### *Article 7: Exchange of Information*

89. This Article (originally Article VIII of the draft) was the object of two proposed amendments.

90. The delegation of Switzerland proposed (document CONFDT/DR. 4) the elimination of this Article. The delegation felt that such information would not be useful for implementing the general principles to which the Multilateral Convention is limited, and emphasized that the competent authorities cited in this Article were not defined. The delegation of the Federal Republic of Germany seconded this proposal.

91. The delegations of Argentina and Brazil stressed the desirability of exchanges of information, which would in particular make it possible to establish comparative information on tax legislation relative to copyright, information which the delegation of Argentina had already indicated would be of use.

92. The delegation of Italy presented a proposed amendment (document CONFDT/DR. 8) specifying that exchanges of information should be accomplished according to the conditions set out in the bilateral agreements. This proposal was seconded by the delegations of Argentina, Hungary, Israel and the Union of Soviet Socialist Republics. The latter delegation, together with the delegations of Algeria and France, suggested that it should be made clear that these exchanges of information can only take place on a basis of effective reciprocity.

93. The delegations of Algeria and Italy stated that in their opinion the information referred to concerned legislation as well as information relating to taxpayers subject to double taxation.

#### *Article 8: Means of Implementation*

94. This Article (originally Article IX of the draft), which defines the scope of the undertaking by the States under the Convention, contained two alternatives in the version submitted to the Conference: in Alternative A, the Contracting State was bound to make every possible effort to adopt the necessary measures for action against double taxation; according to Alternative B, the Contracting States had to give a formal undertaking.

95. This Article led to considerable discussion, since it details all of the means provided for by the Convention for the implementation of action against double taxation.

96. Four proposals for amendments were made by the delegation of the United Kingdom (document CONFDT/DR. 7), by the delegations of France and Italy (documents CONFDT/DR. 2 and 9), and the delegation of the Union of Soviet Socialist Republics (document CONFDT/DR. 14), respectively.

97. The delegation of the United Kingdom recalled that its proposal was to eliminate all of the preceding articles, which were, in its opinion, not only ambiguous but even contradictory, and to substitute one single article by virtue of which the States would endeavor to make every effort to enter into specific or general bilateral agreements to avoid the double taxation of copyright royalties, and would undertake to adopt unilateral domestic measures to relieve this double taxation.

98. This proposal was seconded by the delegations of Austria, Denmark, Germany (Federal Republic of) and the Netherlands. However, the greater part of the delegations felt that it was not possible to reconsider the articles already decided upon.

99. The delegation of France observed that it could subscribe to the proposal made by the United Kingdom in so far as this proposition recommended taking action against the double taxation of copyright royalties by means of specific or general bilateral agreements, but that it could not undertake to adopt unilateral domestic measures to avoid this double taxation.

100. At the conclusion of the discussion, the Chairman of the Main Commission decided that the United Kingdom's proposal should be ruled out, and that it was advisable for the delegations to go on to consider the two Alternatives presented to the Conference.

101. With respect to paragraph 1 of Article 8, the delegation of Algeria proposed a formula for synthesis with regard to Alternatives A and B. Under this formula the States would "undertake to make every possible effort." This phrase was retained. For the rest, this paragraph contains, except for some changes of an adding nature, the provisions of Alternative A of the draft presented to the Conference as amended by DR. 2 proposed by the delegations of France and Italy and seconded by the delegation of the Soviet Union in DR. 14. It stipulates that action against double taxation shall be carried out by means of bilateral agreements or by way of domestic measures.

102. The delegation of the Federal Republic of Germany pointed out that it did not interpret this para-

graph as requiring an undertaking by the Contracting States. In this regard, the delegation of France expressed the opinion that the Convention stipulated an obligation of methods but not an obligation as to results.

103. Paragraph 2 concerns the bilateral agreements. According to the wishes of a number of delegations, it stipulates that these agreements may be general agreements or specific agreements on the double taxation of copyright royalties.

104. With regard to the Model Bilateral Agreement, at the suggestion of the delegation of France, it was stipulated that this model be "attached to this Convention of which it does not form an integral part."

105. In addition, in accordance with the amendment proposed by the delegations of France and Italy (document CONFDT/DR. 9), Article 8 stipulates that prior bilateral agreements made by the Contracting States shall not be affected by the Convention. As a result of the discussions here, it was made clear that this provision is aimed both at bilateral or multilateral agreements of a general nature and at specific agreements on the double taxation of copyright royalties. The delegation of Algeria pointed out that it interpreted this paragraph as not affecting the power of the States to modify existing bilateral agreements and to adapt them, if necessary, to the guiding principles set out in the Convention (document CONFDT/DR. 17).

106. Paragraph 3 was introduced following observations made by the delegations of France and Germany (Federal Republic of). It stipulates that, in case of adoption of domestic measures, any State may define copyright royalties on the basis of its own copyright legislation, notwithstanding the provisions of Article 1, which defines these royalties with reference to the domestic law of the State where these are originally due.

#### *Article 9: Members of Diplomatic or Consular Missions*

107. This Article did not appear in the draft Convention submitted to the Conference. The maintenance of fiscal privileges of members of diplomatic or consular missions was only covered in the draft of the model Bilateral Agreement, of which it formed Article XI.

108. The delegation of France proposed an amendment (document CONFDT/DR. 2) which would include this provision in the Multilateral Convention as well. The delegation of the Union of Soviet Socialist Republics proposed an adjunction (document CONFDT/DR. 16) to this amendment that would

extend to the families of members of diplomatic or consular missions the guarantee that their fiscal privileges would not be affected by the Convention.

109. Some delegations questioned the usefulness of this Article, and were afraid that it would mean an augmentation of the recognized fiscal privileges of members of diplomatic or consular missions. The discussion made it clear that this Article does not grant any new fiscal privilege to the persons in question, but simply stipulates that the Convention cannot have the effect of reducing these privileges.

110. In order that no abuse or augmentation could result, it was added in the text that only the members of diplomatic or consular missions "of the Contracting States" are covered by this provision. It was also agreed that the extension of the guarantee to "families" of members of diplomatic or consular missions meant only members of the family living in the same household with the said mission members.

111. Since some delegations observed that existing practices in their countries did not permit the extension of fiscal privileges to members of the families of diplomatic or consular missions, it was decided that this provision could admit reservations in accordance with Article 12 of the Convention.

#### *Article 10: Information*

112. This Article was not part of the draft submitted to the Conference. It was introduced into the text of the Convention following a proposal for amendment presented by the delegation of France (document CONFDT/DR. 10), which directs the Secretariat of Unesco and the International Bureau of WIPO to provide information on the taxation of copyright royalties and on questions relating to the Convention.

113. The delegations of Brazil, Hungary, Italy, the Union of Soviet Socialist Republics, Switzerland, Argentina and Spain seconded this proposed amendment, subject to slight editing changes.

114. The delegation of the Federal Republic of Germany pointed out that the United Nations already publishes the texts of general Bilateral Conventions relating to double taxation, and that it would do well to avoid duplication here.

115. It was specified in the text of paragraph 1 that the information to be published by the Secretariats of Unesco and WIPO were only of a "normative" nature, and not of an economic or financial one.

116. It was specified in paragraph 2 that, where the entire text of bilateral agreements was to be furnished by the States, this meant the specific agreements concerning the double taxation of copyright royalties. As

regards general bilateral agreements, the information required concerns only "the relevant provisions on the said subject," that is, those dealing with the double taxation of copyright royalties.

#### *Article 11: Ratification, Acceptance, Accession*

117. This Article (Article X of the draft) was the subject of a proposed amendment presented by the delegation of the Union of Soviet Socialist Republics (document CONFDT/DR. 3) to open the Convention for signature by any State. This proposal, however, was not endorsed.

118. The date until which the present Convention will remain open for signature was stipulated, that is, October 31, 1980, which allows a period of more than ten months for States to sign.

119. With regard to paragraph 4, the delegation of Brazil pointed out that this was a clause similar to that in the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Article 26). As the majority of the delegations recognized its importance, this provision was adopted with only a minor change in the initial draft: to describe the legislation, the adjective domestic was preferred to the word national.

120. It was understood that the said internal legislation comprised legislation relating to copyright as well as internal fiscal measures taken to avoid double taxation of copyright royalties in accordance with the Convention.

#### *Article 12: Reservations*

121. This Article corresponds to Article XI of the Draft and considerably extends the right to make reservations available under the original provision.

122. It was the subject of an amendment proposed by the delegations of France and Italy (document CONFDT/DR. 2) either to delete the Article or to supplement it by a provision according States the right to declare that they interpreted the bilateral agreements referred to in Article 8 as applying to comprehensive bilateral agreements for the avoidance of double taxations.

123. The delegation of Switzerland proposed, in document CONFDT/DR. 4, either to delete the article on reservations or to replace it by a new article permitting reservations to Articles IV, VII, VIII, IX and XV of the draft, as well as declarations interpreting all other provisions of the Convention.

124. It was noted that, in the absence of a provision forbidding reservations, States were free to make them, in accordance with the principle laid down in the Vienna Convention on the Law of Treaties.

125. The delegation of Algeria pointed out that an unrestricted right to make reservations would weaken the force of the Convention and requested that reservations to the basic articles of the Convention should not be allowed.

126. The delegation of Hungary proposed that the articles to which reservations could be made should be spelled out.

127. Many delegations supported the French amendment (DR. 2), further stating that they were in favor of the procedure proposed by the delegation of Hungary. The delegations of Algeria and Egypt asked that the right to make reservations should not be restricted to Article XV of the draft (Article 17 of the Convention), but should extend to the articles containing definitions, so that commercial companies, *inter alia*, could be excluded from protection under the Convention. The delegation of India considered that Article 9, relating to members of diplomatic or consular missions, should also be open to reservation.

128. It was finally decided that reservations would be allowed only to Articles 1 to 4, 9 and 17 of the Convention.

129. The proposal by the delegation of France to include express provision for declarations of interpretation was not accepted. In fact, such declarations remained possible even if the Convention did not specifically authorize them. The delegation of France thereupon stated that its Government might feel obliged, at the appropriate time, to make declarations interpreting, *inter alia*, Articles 5 and 8 of the Convention.

#### *Article 13: Entry into Force*

130. This Article corresponds to Article XII of the draft and was the subject of two proposed amendments presented by the delegations of the Union of Soviet Socialist Republics (document CONFDT/DR. 3) and Switzerland (document CONFDT/DR. 4).

131. The first of these amendments was to delete paragraph 3 of the draft, which referred to territories for whose international relations a State was responsible.

132. Many delegations endorsed this proposal, pointing out that it further implied the deletion of paragraph 4.

133. Accordingly, Article 13 consisted of only the first two paragraphs of the draft.

134. The second of these amendments was to the effect that the number of ratifications, acceptances or accessions required for the entry into force of the

Convention should be increased from 5 to 35, in view of the fact that the Convention was a multilateral instrument open to virtually all States.

135. The general view was that 35 would be excessive and it was recalled that most conventions in the field of intellectual property provided for approximately 5 ratifications as a condition for entry into force.

136. The delegation of France proposed that the number should be set at 10, and this figure was adopted.

#### *Article 14: Denunciation*

137. This Article is based on Article XIII of the draft, the reference to paragraph 3 of the preceding article having been deleted as a result of the decision taken to remove that paragraph from the Convention.

#### *Article 15: Revision*

138. This Article was included in the Convention pursuant to a proposed amendment presented by the Chairman of the Main Commission (document CONFDT/DR. 21), based on Article 29 of the Rome Convention.

139. In the case of a Convention which most delegations regarded as representing only a first stage in multilateral action against double taxation of copyright royalties, it seemed appropriate to include a revision procedure that would enable the content to be improved.

140. The number of States having to notify their concurrence with a request for the convening of a revision conference was set, at the proposal of the delegation of Uruguay, at not less than one-third of the Contracting States, provided that, as suggested by the delegation of France, the number was not less than five. The convocation of such a revision conference would, as suggested by the delegation of Uruguay, be for improving action against double taxation of copyright royalties.

141. The actual revision, as in the case of the Rome Convention, would require an affirmative vote by two-thirds of the States attending the Conference, provided that this majority included two-thirds of the States party to the Convention.

142. The delegation of France asked that the percentages adopted for the revision procedure of the Convention should not create a precedent that could be invoked for the revision of other conventions.

143. The delegation of Spain requested a clarification of the terms of paragraph 3 concerning the position of States which became a party to the Convention after the entry into force of a new convention

revising it. The wording of this paragraph was therefore modified to indicate that, failing an expression of a different intention, States were considered as a party to the revised Convention, as well as a party to the present Convention, in relation to any State which was a party to it but was not bound by the revised Convention.

144. Finally, paragraph 4 stipulated that the Convention shall remain in force between Contracting States which had not become parties to the revised Convention.

*Article 16: Languages of the Convention and Notifications*

145. This Article, which corresponds to Article XIV of the draft, was not debated.

146. It was pointed out that Arabic, English, French, Russian and Spanish were the languages in which the Convention was submitted for signature, the five texts being equally authentic, and that the other languages in which official texts shall be established were German, Italian and Portuguese.

147. It was indicated that the notifications made by the Secretary-General of the United Nations should include, in addition to the items listed in Article XIV of the draft, any text accompanying the signature and instrument of ratification, acceptance or accession, on the understanding that such texts referred to reservations and declarations of interpretation. Furthermore, the list of documents to be notified was supplemented by a reference to any communications from States concerning the revision of the Convention.

*Article 17: Interpretation and Settlement of Disputes*

148. This Article, which corresponds to Article XV of the draft, was adopted without change.

149. However, a proposed amendment presented by the delegation of the Netherlands (document CONFDT/DR. 12) suggested the deletion of the reference to the application of the Convention as an object of dispute that could be brought before the International Court of Justice. This delegation considered that the Court was competent only to interpret the Multilateral Convention and not the domestic measures taken by States or the bilateral agreements concluded by them in application of the Convention. This proposal was supported by the delegations of Germany (Federal Republic of), Italy and France.

150. The delegations of India and Algeria were in favor of maintaining the original text.

151. The Chairman of the Main Commission then proposed an interpretation of the text that could satisfy all delegations. In accordance with this inter-

pretation, the expression "application of this Convention" referred to the application of Article 8. The competence of the International Court of Justice did not extend to domestic measures or to bilateral agreements; nevertheless, the Court could judge whether the Contracting States had made every possible effort to avoid double taxation of copyright royalties, where possible, and, should it subsist, to eliminate it or to reduce its effect.

**IV. Additional Protocol**

152. The purpose of the Additional Protocol is to extend the provisions of the Multilateral Convention to "neighboring" rights.

153. At the suggestion of the delegation of France, the adjective "annexed" was replaced by "additional" as a description of this Protocol, since it placed greater emphasis on the purpose of the Protocol, which was to allow States party to the Convention to extend its scope.

154. It was understood that only States party to the Multilateral Convention might accede to the Additional Protocol, but that there was no obligation for them to do so. It was also pointed out that it was not necessary for a State to be a party to the Rome Convention in order to accede to the Protocol.

155. When this text was accepted by the Conference, the delegation of Argentina made a declaration of interpretation to the effect that it regarded the Protocol as strictly optional and that any State was free to sign it or accede to it at the appropriate time.

**V. Model Bilateral Agreement**

156. The delegation of Uruguay, with the support of several other delegations, proposed that the model bilateral agreement should not be debated but approved as a whole, since it was merely an optional model which States were free to reject or modify.

157. Since the delegation of Israel and several other delegations had proposed amendments to the model, it was decided that they should be discussed and that the draft Bilateral Agreement should be examined to check that it conformed to the Multilateral Convention and did not contain any technical errors.

158. The delegation of the Union of Soviet Socialist Republics proposed certain drafting changes to Articles IV, VI, XI and XIII (document CONFDT/DR. 3).

159. The delegation of Egypt made some observations on the title and preamble, as well as on Articles II, III and V to VIII (document CONFDT/DR. 15).

160. The delegation of India proposed modifications to the preamble and to Articles V, VI, VIII and IX (document CONFDT/DR. 19).

161. The delegation of Japan proposed an alternative VI E (document CONFDT/DR. 18) concerning the allocation of taxation between the State of residence and the State of source, with the tax ceiling in the State of source.

162. The delegation of Algeria then proposed an alternative VI F, mirroring the Japanese alternative VI E by providing for the allocation of taxation between the State of source and the State of residence, with the tax ceiling in the State of residence (document CONFDT/DR. 20).

163. The delegation of the Federal Republic of Germany proposed an amendment to paragraph 2 of Alternative VI B which would have the effect of setting the tax ceiling solely in the State of source, with a similar amendment to paragraph 2 of alternative VI C (document CONFDT/DR. 22).

164. It was noted that some of the alternatives for Article VI were incompatible with those of Article VII. Given the many possible combinations of these alternatives, it would be difficult to eliminate this drawback. States themselves would have to make a choice in the light of the mutual compatibility of the various alternatives. It was also pointed out that, whereas the taxation methods in the six alternatives respected the equality of the right to levy taxes of the State of source and the State of residence, the methods for the elimination of double taxation placed the burden principally upon the State of residence. This inequality to the detriment of the State of residence was due to technical imperatives. It should be eliminated in the course of bilateral negotiations, either by setting a tax ceiling in the State of source, or by sharing the tax loss resulting from the elimination of double taxation between the State of source and the State of residence.

165. Upon conclusion of the discussion, certain changes were made to the model Bilateral Agreement. In accordance with a proposal by the delegation of India, paragraph 4 of Alternative A of Article II and paragraph 3 of Alternative B of the same Article now stipulate that the Contracting States should communicate any changes in their respective tax laws at the beginning of each year.

166. Article IV was maintained in its original form, but the delegation of the Union of Soviet Socialist Republics pointed out that, in its view, the application of the text could give rise to practical difficulties and that it was therefore obliged to express reservations in that respect.

167. In accordance with the proposal of the delegation of India (document CONFDT/DR. 19), the definition of the term "permanent establishment" in paragraph 2 of Article V was supplemented by the words: "a store or other sales outlet" and "a permanent exhibition at which orders are received or solicited."

168. Article VI was supplemented by the addition of two new alternatives, namely, VI E, corresponding to DR. 18 proposed by the delegation of Japan, and VI F, corresponding to DR. 20 proposed by the delegation of Algeria. Also as proposed by the delegation of India in DR. 19, deductions on account of expenses in connection with copyright royalties, as referred to in paragraph 3 of Alternative VI A and paragraph 4 of Alternatives VI B and VI C will be limited to the extent that they are admissible under the domestic law of that State.

169. As proposed by the delegation of India in DR. 19, it was stated in paragraph 3 of Article VIII that enterprises of the other State which served as a reference for taxation should not only carry on the same activities but should have the same status for tax purposes.

170. Paragraph 2 of Article IX was amended by adding to the period stipulated in the agreement a period intimated by the competent authority of one Contracting State to the competent authority of the other. This modification was proposed by the delegation of India in DR. 19.

171. Article X no longer refers to the corresponding article in the Multilateral Convention regarding the exchange of information.

172. Article XI was brought into line with Article 9 of the Multilateral Convention by extending the guarantees provided to the families of members of diplomatic or consular missions, as proposed by the delegation of the Union of Soviet Socialist Republics in DR. 3.

173. After these modifications had been accepted, it was decided that the draft optional Model Bilateral Agreement should be attached to the Convention, of which it did not form an integral part.

## VI. Final Declarations

174. Upon the conclusion of the work of the Main Commission, the delegations of the following States: Algeria, Argentina, Brazil, Cameroon, Egypt, Hungary, India, Iraq, Israel, Malaysia, Nigeria, Poland, Tunisia, Union of Soviet Socialist Republics, Uruguay and Venezuela stated, in turn, that the draft Multilateral Convention that would be transmitted to

a plenary meeting of the Conference was entirely acceptable to them, although, in their view, it constituted no more than a compromise between divergent interests and amounted to no more than a minimum measure of multilateral action against double taxation of copyright royalties.

175. The delegations of the following States: Austria, Belgium, Denmark, Finland, France, Germany (Federal Republic of), Italy, Japan, Netherlands, Sweden, Switzerland, United Kingdom and United States of America stated that, while endorsing the aims of the Conference, i. e., the identification of means of combating double taxation, they had objections to the method employed, which consisted in a Multilateral Convention, whose lack of realism and risk of ineffectiveness they stressed. Accordingly, not being convinced that the text could attain the objectives set forth in its preamble, they declared that they would adopt a stance of neutrality and abstention with regard to the provisions drawn up.

176. The delegation of France, after recalling that it had submitted a draft amendment to Article 5 (document CONFDT/DR. 23) proposing the deletion from that article of any reference to the equality of the right to tax of the State of source and the State of residence, explained that it had decided to withdraw the amendment after noting during preliminary contacts that some delegations were barely interested in the proposal while others would be prepared to adopt it only after scaling down its impact. The delegation of France stressed the fact that it had always taken a great interest in the objectives pursued by the Conference, since it considered that the obstacles to intellectual creation arising from the double taxation of copyright royalties should be eliminated. Nevertheless, it reserved its right to take advantage of the time available under Article 11 in order to decide whether it could approve the documents drawn up by the Conference, subject to certain declarations of interpretation. In its view, in spite of the improvements made to the drafts by the Conference, they were still open to two criticisms:

- (a) the Model Bilateral Agreement contained so many alternatives that it assumed great complexity. It ran the risk of failing to offer practical guidance to States wishing to sign bilateral agreements. However, the Model Bilateral Agreement was now no longer annexed, but merely attached, to the Convention, of which it did not form an integral part. It should not, therefore, constitute an insuperable obstacle to approval by France;
- (b) a more serious objection related to the wording of Article 5, of which two interpretations were possible. According to the first, this article simply meant that the Multilateral Convention did

not deprive States of their right to tax and that it was solely within the framework of bilateral agreements that a State could decide to waive all or part of its right to tax copyright royalties. The second interpretation of the equality of the right to tax might give this principle "permanent and absolute" fiscal scope, going beyond the field of copyright royalties to become a general principle of international fiscal policy — an issue which could not properly be raised under the Convention. This second interpretation would be unacceptable to France. Therefore, subject to certain declarations of interpretation, France might be able to accept the provisions of the Convention.

177. When the draft texts of the Multilateral Convention and the Model Bilateral Agreement were submitted to the plenary meeting of the Conference, the delegation of India proposed that, in a spirit of international cooperation, they should be accepted as a whole, since they were the result of negotiations that had produced a minimum basis for future multilateral action against double taxation of copyright royalties.

178. This proposal was supported by the delegations of Argentina, Brazil, Cameroon, Egypt, Hungary, Iraq, Israel, the Union of Soviet Socialist Republics and Uruguay, which hoped that the drafts would be accepted by consensus.

179. The delegation of the United Kingdom considered that, in order to have a clear indication of the position of participating delegations and to determine whether such consensus existed, a vote should be taken. It also pointed out that, in making this request, it did not intend to oppose acceptance of the texts which, for its part, however, it could not accept.

180. The proposal to take a vote was supported by the delegations of Denmark and Germany (Federal Republic of).

181. The delegations of Brazil, Cameroon and Israel pointed out that a vote was unnecessary since it was up to each government, when the time came, to decide what attitude it would take towards the texts that had been drawn up.

182. The delegation of Israel basing itself on the Rules of Procedure then asked that a vote should first be taken on whether the texts should be put to the vote.

183. Upon the decision of the President of the Conference, this proposal, which was supported by the delegations of Brazil, Cameroon and Uruguay, was submitted to a roll-call vote in which the delegations which were duly and correctly accredited took part. Nine delegations (Austria, Belgium, Denmark, Finland, Germany (Federal Republic of), Japan, Nether-

lands, Sweden, United Kingdom) voted in favor. Fourteen delegations (Angola, Argentina, Brazil, Cameroon, Czechoslovakia, Egypt, Hungary, India, Iraq, Israel, Malaysia, Poland, Union of Soviet Socialist Republics, Uruguay) voted against. Three delegations (Holy See, Spain, Switzerland) abstained.

184. The two-thirds majority required under Rule 22 of the Rules of Procedure not having been attained, the texts of the Multilateral Convention, the Additional Protocol (document UNESCO/WIPO/CONFDT/12) and the Model Bilateral Agreement (document UNESCO/WIPO/CONFDT/13) were not put to the vote. It was understood that those delegations which so desired could ask for their remarks to be recorded in the General Report.

185. The delegation of the United Kingdom lodged a formal protest against the procedure which had been followed.

186. At the request of the President of the Conference, a number of delegations then submitted written or oral declarations.

187. After expressing its approval of the procedure followed by the President, the delegation of Japan recalled its fundamental reservation with regard to the idea of a multilateral convention. Japan was still convinced that a gradual and realistic enlargement of existing bilateral agreements, together with the maintenance of domestic measures for a "foreign tax credit system" were the best way of attaining the common goal, which was the avoidance of double taxation. The debates had shown that the texts still gave rise to different interpretations, thus casting doubt on their effective and transparent functioning and ease of application. Those were the reasons why Japan could not support the texts and would have abstained if the Conference had proceeded to a vote.

188. The delegation of the Federal Republic of Germany stated that the problem posed by double taxation had already been solved in its country by means of bilateral agreements and domestic measures. The Federal Republic of Germany could therefore display a certain degree of neutrality with regard to the documents drawn up by the Conference. It had nevertheless noted serious imperfections in those documents. Without denying that they had certain positive aspects, it would have had to abstain if a vote had been taken.

189. The delegation of Finland was in favor of the objectives of the Convention and recognized the importance of action against double taxation. It did not, however, believe that a specific multilateral convention, covering a single category of taxpayers, was the best way of solving the problems involved. Finland had already signed 30 bilateral agreements,

several of them with developing countries. In its view, this method, coupled with domestic measures, was more effective. It would, therefore, have abstained had a vote been taken.

190. The delegation of Austria recognized that the objectives of the Multilateral Convention were of great interest. Austria had already concluded numerous bilateral agreements concerning income of all kinds, including agreements with developing countries, with a view to eliminating double taxation. Furthermore, Austrian legislation tended to avoid double taxation, whereas the Multilateral Convention, in its view, raised many technical problems and would be difficult to implement. Austria would, therefore, have abstained if a vote had been taken.

191. The delegation of Sweden supported the statement made by the delegation of Finland. It considered that an important result of the Convention was that it had drawn attention to the specific problem of double taxation of copyright royalties. For many States, there would be no problem about applying the Convention, since they had already concluded effective bilateral agreements and taken the necessary domestic measures. It welcomed the fact that an Additional Protocol had been drawn up to extend the scope of the Convention to "neighboring" rights. Recognizing the complexity of certain definitions and understanding the objections raised by tax experts, Sweden would have abstained had a vote been taken.

192. The delegation of Denmark endorsed the statements made by the delegations of Finland and Sweden.

193. The delegation of Switzerland said it was in favor of taking action against double taxation. The Swiss Government had already concluded more than 20 comprehensive bilateral agreements for that purpose. It was not convinced that the Multilateral Convention would be effective. While agreeing on the aims but not on the means chosen to achieve them, the delegation of Switzerland would have abstained if a vote had been taken.

194. The delegation of Belgium considered that the Convention, owing to its specific nature, gave preferential treatment to one category of taxpayers. It wondered whether, from a constitutional point of view, this technique conformed with "normality." It recalled the general observations submitted by the Belgian Government prior to the Conference, and which appeared in document UNESCO/WIPO/CONFDT/8. In its opinion, experience has shown that the negotiation of multilateral conventions encountered difficulties on account of the divergencies between legislations and differences of approach. It also recalled that Belgium had, in addition to domestic measures, already concluded about forty compre-

hensive bilateral agreements. Considering that the method chosen was not the most appropriate, the Belgian delegation would have abstained if a vote had been taken.

195. The delegation of Spain, as the host country for the Conference, would have liked the Convention to have been accepted without objections. It recognized the importance of the problem raised by double taxation of copyright royalties, but had doubts about the content of the Convention, whose principles did not always seem clear and even appeared contradictory on occasion. Spain had already taken action in this field through unilateral measures and comprehensive bilateral agreements which included copyright royalties. It endorsed the points of view expressed by the delegations of Belgium and Switzerland. Determined to act against double taxation but unable for technical reasons to approve the drafts at the present time, Spain would have abstained if a vote had been taken, while hoping that after a more detailed study it would yet be able to sign the documents drawn up by the Conference.

196. The delegation of Cameroon expressed its gratitude to the industrialized countries with which its Government had signed cooperation agreements in the field of double taxation. It approved the method adopted by the Conference and recognized the usefulness of a specific convention for solving the problem of double taxation of copyright royalties. As a general rule, Cameroon had every confidence in measures conducive to reinforcing cooperation amongst peoples.

197. The delegation of the Netherlands recalled the observations made by its Government before the opening of the Conference, which appeared in document UNESCO/WIPO/CONFDT/8 and stated that the conclusion of a convention for the benefit of a specific group of taxpayers was not recommendable. Comprehensive bilateral agreements were a better means of establishing a balance between the different interests involved. Consequently the Netherlands would have abstained if a vote had been taken.

198. The delegation of the Union of Soviet Socialist Republics expressed its satisfaction at the work accomplished by the Conference, which had made it possible to overcome technical difficulties and the diverging interests of States. In its view, the documents which had been drawn up were fully acceptable. The Convention was indeed complex and could not satisfy all States, but, like all international instruments, it represented a compromise. The Soviet Union hoped that, with the passage of time, those States which today had reservations with regard to the Multilateral Convention would be able to accept it at some future date. The important point was the

will shown by States in the course of the Conference to reconcile their viewpoints, which could serve as an example for future international gatherings.

199. The delegation of the United Kingdom said it fully supported the objective of avoiding double taxation. The United Kingdom had the largest network of comprehensive bilateral agreements (about 80), most of them with developing countries, and in those cases where there was no agreement double taxation was relieved by unilateral measures under domestic law. Referring to suggestions made during the Conference that the United Kingdom had been against a multilateral convention from the start, it stressed the fact that the multilateral approach was bound to create difficulties and would be unlikely to produce fruitful results. Nevertheless, the United Kingdom had played its part fully in the preparatory work, as well as in the Conference itself, in an attempt to achieve a satisfactory solution. The United Kingdom delegation regretted that its proposal (document CONFDT/DR. 7) had not been accepted, and that the documents which had emerged from the deliberations were not substantially different from the original drafts. Throughout the preparatory work and during the Conference itself, the United Kingdom had pointed out the technical imperfections and ambiguities in many of the articles. These were now further compounded by the new Article 12, which allowed reservations to be entered against no less than six articles, not to mention the declarations of interpretation that certain States wished to make. The key article (Article 8) had its own in-built reservation, since it required nothing more than an effort to do something. The United Kingdom delegation regretted that a disappointing document had been produced, which would contribute little to the objectives set out in the preamble. At the present stage the United Kingdom was unable to support it, but had no wish to inhibit others from doing so if they considered it acceptable. Having been denied the right to vote, the United Kingdom wished it to be recorded categorically that it was not part of the consensus which was said to have emerged.

200. The delegation of Poland affirmed that the Convention constituted an important international document. Its universal application would be most useful, particularly for those countries which found it difficult to get access to works of the mind. Poland had already eliminated with several countries double taxation by means of comprehensive or specific agreements. Even if the present document was not perfect, and represented no more than a compromise which did not perhaps live up to certain expectations, it held promise for the future.

201. The delegation of Canada stated that its Government had decided not to sign the Multilateral

Convention to which a Model Bilateral Agreement was attached because it considered that such a convention was neither necessary nor applicable. Copyright royalties were not subject to double taxation under the Canadian fiscal system. When royalties were paid by a Canadian resident to a Canadian non-resident, no tax deduction was made in Canada. Conversely, a Canadian resident who received copyright royalties from a foreign source could obtain full exemption. Moreover, the Convention dealt with a single aspect of double taxation, namely, copyright royalties, and it was difficult in its view to justify the negotiations of a Convention which benefitted only one group of taxpayers. The Canadian Government believed that, when tax problems arose, they could be settled more readily in the context of a comprehensive bilateral agreement. Canada had already concluded a number of such agreements and its efforts in that direction would continue. Had a vote been taken and if it had been empowered to participate in it, the delegation of Canada would have abstained.

202. The delegation of Angola considered that the Multilateral Convention constituted an important step towards solving the problems posed by the double taxation of copyright royalties. Nevertheless, the instrument had features which would prevent Angola, in the light of its present situation, from ratifying it. For this reason the delegation of Angola would not sign the text, although it was not opposed to its formulation.

203. The delegation of Mexico recalled that, under Mexican law, copyright royalties were exempt from income tax, since preferential treatment for this category of taxpayers was regarded as a means of promoting education, science and culture. It also recalled its proposal at the Third Committee of Governmental Experts to include in the envisaged multilateral

instrument a tax exemption clause, subject to reciprocity, since that was regarded as the best means of avoiding double taxation in relations between States. In the light of the provisions favorable to authors in Mexican tax law, and in view of the failure to accept the Mexican proposal, Mexico had felt obliged to abstain from participating in the debates of the Conference.

#### **VII. Final Act**

204. It was decided to prepare a Final Act that the participating delegations could sign in testimony of the holding of the Conference. A draft, drawn up by the Secretariat, was submitted to a plenary meeting of the Conference (document UNESCO/WIPO/CONFDT/14) which adopted it without change. It was confirmed, upon a question raised by the delegation of Belgium, that in accordance with international law any State represented at the Conference is entitled to sign this document, without such signature implying legal obligation. This Final Act was signed by 31 States on December 13, 1979.

#### **VIII. Adoption of the General Report and Closing of the Conference**

205. This General Report was unanimously adopted.

206. Closing speeches were delivered by the President of the Conference and by the representatives of the Directors General of Unesco and WIPO.

207. After the usual thanks, the President of the Conference declared the Conference closed.

**Multilateral Convention  
for the Avoidance of Double Taxation of Copyright Royalties**

The Contracting States,

*Considering* that the double taxation of copyright royalties is prejudicial to the interests of authors and thus constitutes a serious impediment to the dissemination of copyrighted works, which is one of the basic factors in the development of the culture, science and education of all peoples,

*Believing* that the encouraging results already achieved by action against double taxation, through bilateral agreements and domestic measures, whose beneficial effects are generally recognized, can be improved by the conclusion of a multilateral convention specific to copyright royalties,

*Being of the opinion* that these problems must be solved while respecting the legitimate interests of States and particularly the needs specific to those where the widest possible access to works of the human mind is an essential condition to their continuing development in the fields of culture, science and education,

*Seeking* to find effective measures designed to avoid double taxation of copyright royalties where possible and, should it subsist, to eliminate it or to reduce its effect,

Have agreed on the following provisions:

CHAPTER I

**Definitions**

ARTICLE 1

*Copyright Royalties*

1. For the purposes of this Convention and subject to the provisions of paragraphs 2 and 3 of this Article, copyright royalties are payments of any kind made on the basis of the domestic copyright laws of the Contracting State in which these royalties are originally due, for the use of, or the right to use, a copyright in a literary, artistic or scientific work, as defined in the multilateral copyright conventions, including such payments made in respect of legal or compulsory licences or in respect of the "droit de suite."

2. This Convention shall not, however, be taken to cover royalties due in respect of the exploitation of cinematographic works or works produced by a process analogous to cinematography as defined in the domestic copyright laws of the Contracting State in which these royalties are originally due when the said royalties are due to the producers of such works or their heirs or successors-in-title.

3. With the exception of payments made in respect of the "droit de suite" the following shall not be considered as copyright royalties for the purposes of this Convention: payments for the purchase, rental, loan or any other transfers of a right in the material base of a literary, artistic or scientific work, even if the amount of this payment is fixed in the light of the copyright royalties due or if the latter are determined, in whole or in part, by that of the said payment. When a right in the material base of work is transferred as an accessory to the transfer of the entitlement to use a copyright in the work, only the payments in return for this entitlement are copyright royalties for the purposes of this Convention.

4. In the case of payments made in respect of the "droit de suite" and in all cases of the transfer of a right in the material base of a work referred to in paragraph 3 of this Article and independently of the fact that the transfer in question is or is not free of charge, any payment made in settlement of or as a reimbursement for an insurance premium, transport or warehousing costs, agent's commission or any other remuneration for a service, and any other expenses incurred, directly or indirectly, by the removal of the material base in question, including customs duties and other related taxes and special levies, shall not be a copyright royalty for the purposes of this Convention.

ARTICLE 2

*Beneficiary of Copyright Royalties*

For the purposes of this Convention, the "beneficiary" of copyright royalties is the beneficial owner thereof to whom all or a part of such royalties is paid, whether he collects them as author, or heir or successor-in-title of the author, or whether he collects them in application of any other relevant criterion as agreed to in a bilateral agreement concerning double taxation of copyright royalties.

## ARTICLE 3

*State of Residence of the Beneficiary*

1. For the purposes of this Convention, the State of which the beneficiary of the copyright royalties is a resident shall be deemed to be the State of residence of the beneficiary.

2. A person shall be deemed to be a resident of a State if he is liable to tax therein by reason of his domicile, residence, place of effective management or any other relevant criterion as agreed to in a bilateral agreement concerning double taxation of copyright royalties. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital he possesses there.

## ARTICLE 4

*State of Source of Royalty*

For the purposes of this Convention, a State shall be deemed to be the State of source of copyright royalties when such royalties for the use of, or the right to use, a copyright in a literary, artistic or scientific work are originally due:

- (a) by that State or by a political or administrative subdivision or local authority of that State;
- (b) by a resident of that State except where they result from an activity carried on by him in another State through a permanent establishment or from a fixed base;
- (c) by a non-resident of that State, where they result from an activity carried on by him through a permanent establishment or from a fixed base.

## CHAPTER II

**Guiding Principles for Action against Double Taxation of Copyright Royalties**

## ARTICLE 5

*Fiscal Sovereignty and Equality of Rights of States*

Action against double taxation of copyright royalties shall be carried out, in accordance with the provisions of Article 8 of this Convention, with due respect for the fiscal sovereignty of the State of source and the State of residence, and due respect for the equality of their right to tax these royalties.

## ARTICLE 6

*Fiscal Non-Discrimination*

The measures against double taxation of copyright royalties shall not give rise to any tax discrimination based on nationality, race, sex, language or religion.

## ARTICLE 7

*Exchange of Information*

In so far as it is necessary for the implementation of this Convention, the competent authorities of the Contracting States will exchange reciprocally information in the form and under the conditions which shall be laid down by means of bilateral agreement.

## CHAPTER III

**Implementation of the Guiding Principles for the Action against Double Taxation of Copyright Royalties**

## ARTICLE 8

*Means of Implementation*

1. Each Contracting State undertakes to make every possible effort, in accordance with its Constitution and the guiding principles set out above, to avoid double taxation of copyright royalties, where possible, and, should it subsist, to eliminate it or to reduce its effect. This action shall be carried out by means of bilateral agreements or by way of domestic measures.

2. The bilateral agreements referred to in paragraph 1 of this Article include those which deal with double taxation in general or those which are limited to double taxation of copyright royalties. An optional model of a bilateral agreement of the latter category, comprising several alternatives, is attached to this Convention of which it does not form an integral part. The Contracting States, while respecting the provisions of this Convention, may conclude bilateral agreements based on the norms that are most acceptable to them in each particular case. The application of bilateral agreements concluded earlier by the Contracting States is in no way affected by this Convention.

3. In case of adoption of domestic measures, each Contracting State may, notwithstanding the provisions of Article 1 of this Convention, define copyright royalties by reference to its own copyright legislation.

## CHAPTER IV

## General Provisions

## ARTICLE 9

*Members of Diplomatic or Consular Missions*

The provisions of this Convention do not affect the fiscal privileges of members of diplomatic or consular missions of the Contracting States, as well as of their families, either under the general rules of international law or under the provisions of special conventions.

## ARTICLE 10

*Information*

1. The Secretariat of the United Nations Educational, Scientific and Cultural Organization and the International Bureau of the World Intellectual Property Organization shall assemble and publish relevant normative information concerning taxation of copyright royalties.

2. Each Contracting State shall communicate, as soon as possible, to the Secretariat of the United Nations Educational, Scientific and Cultural Organization and to the International Bureau of the World Intellectual Property Organization, the text of any new law, as well as all official texts concerning the taxation of copyright royalties, including the text of any specific bilateral agreement or the relevant provisions on the said subject contained in any bilateral agreement dealing with double taxation in general.

3. The Secretariat of the United Nations Educational, Scientific and Cultural Organization and the International Bureau of the World Intellectual Property Organization shall furnish to any Contracting State, upon its request, information on questions relating to this Convention; they shall also carry out studies and provide services in order to facilitate the application of this Convention.

## CHAPTER V

## Final Clauses

## ARTICLE 11

*Ratification, Acceptance, Accession*

1. This Convention shall be deposited with the Secretary-General of the United Nations Organization. It shall remain open until October 31, 1980, for

signature by any State that is a member of the United Nations, any of the Specialized Agencies brought into relationship which the United Nations or the International Atomic Energy Agency, or is a party to the Statute of the International Court of Justice.

2. This Convention shall be subject to ratification or acceptance by the signatory States. It shall be open for accession by any State referred to in paragraph 1 of this Article.

3. Instruments of ratification, acceptance or accession shall be deposited with the Secretary-General of the United Nations.

4. It is understood that, at the time a State becomes bound by this Convention, it will be in a position in accordance with its domestic law to give effect to the provisions of this Convention.

## ARTICLE 12

*Reservations*

The Contracting States may, either at the time of signature of this Convention or at the time of ratification, acceptance or accession, make reservations as regards the conditions of application of the provisions contained in Articles 1 to 4, 9 and 17. No other reservation to the Convention shall be permitted.

## ARTICLE 13

*Entry into Force*

1. This Convention shall enter into force three months after the deposit of the tenth instrument of ratification, acceptance or accession.

2. For each State ratifying, accepting, or acceding to this Convention after the deposit of the tenth instrument of ratification, acceptance or accession, this Convention shall enter into force three months after the deposit of its instrument.

## ARTICLE 14

*Denunciation*

1. Any Contracting State may denounce this Convention by a written notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect twelve months after the date of receipt of the notification by the Secretary-General of the United Nations.

## ARTICLE 15

*Revision*

1. After this Convention has been in force for five years, any Contracting State may, by notification addressed to the Secretary-General of the United Nations, request that a conference be convened for the purpose of revising the Convention. The Secretary-General shall notify all Contracting States of this request. If, within a period of six months following the date of notification by the Secretary-General of the United Nations, not less than one-third of the Contracting States, provided the number is not less than five, notify him of their concurrence with the request, the Secretary-General shall inform the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director General of the World Intellectual Property Organization, who shall convene a revision conference with a view to introducing into this Convention amendments designed to improve action against double taxation of copyright royalties.

2. The adoption of any revision of this Convention shall require an affirmative vote by two-thirds of the States attending the revision conference, provided that this majority includes two-thirds of the States which, at the time of the revision conference, are parties to the Convention.

3. Any State which becomes a party to the Convention after the entry into force of a new Convention wholly or partially revising this Convention shall, failing an expression of a different intention by that State, be considered as:

- (a) a party to the revised Convention;
- (b) a party to this Convention in relation to any State which is a party to the present Convention but is not bound by the revised Convention.

4. This Convention shall remain in force as regards relations between or with the Contracting States which have not become parties to the revised Convention.

## ARTICLE 16

*Languages of the Convention and Notifications*

1. This Convention shall be signed in a single copy in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

2. Official texts shall be established by the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director

General of the World Intellectual Property Organization, after consultation with the interested Governments concerned, in the German, Italian and Portuguese languages.

3. The Secretary-General of the United Nations shall notify the States referred to in Article 11, paragraph 1, as well as the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director General of the World Intellectual Property Organization of:

- (a) signature of this Convention, together with any accompanying text;
- (b) the deposit of instruments of ratification, acceptance or accession, together with any accompanying text;
- (c) the date of entry into force of this Convention under Article 13, paragraph 1;
- (d) the receipt of notifications of denunciation;
- (e) the requests communicated to him in accordance with Article 15, as well as any communication received from the Contracting States concerning the revision of this Convention.

4. The Secretary-General of the United Nations shall transmit two certified copies of this Convention to all States referred to in Article 11, paragraph 1.

## ARTICLE 17

*Interpretation and Settlement of Disputes*

1. A dispute between two or more Contracting States concerning the interpretation or in the matter of application of this Convention, not settled by negotiation, shall, unless the States concerned agree on some other method of settlement, be brought before the International Court of Justice for determination by it.

2. Any State may, at the time of signing this Convention or depositing its instrument of ratification, acceptance or accession, declare that it does not consider itself bound by the provisions of paragraph 1. In the event of a dispute between that State and any other Contracting State, the provisions of paragraph 1 shall not apply.

3. Any State that has made a declaration in accordance with paragraph 2 may at any time withdraw it by notification addressed to the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention.

DONE at Madrid on December 13, 1979.

**Additional Protocol  
to the Multilateral Convention for the Avoidance  
of Double Taxation of Copyright Royalties**

The States party to the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties (hereinafter called "the Convention") that are party to this Protocol have accepted the following provisions:

1. The provisions of the Convention also apply to the taxation of royalties paid to performers, producers of phonograms and broadcasting organizations in respect of rights related to copyright or "neighboring" rights, in so far as the latter royalties arise in a State party to this Protocol and their beneficiaries are residents of another State party to this Protocol.

2. (a) This Protocol shall be signed and shall be subject to ratification, acceptance or accession by the

signatory States, or may be acceded to, in accordance with the provisions of Article 11 of the Convention.

(b) This Protocol shall enter into force in accordance with the provisions of Article 13 of the Convention.

(c) Any Contracting State may denounce this Protocol in accordance with the provisions of Article 14 of the Convention, it being understood, however, that a Contracting State denouncing the Convention must at the same time also denounce this Protocol.

(d) The provisions of Article 16 of the Convention shall apply to this Protocol.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Protocol.

DONE at Madrid on December 13, 1979.

## **The WIPO Training Program in the Field of Copyright and Neighboring Rights for Developing Countries in 1979**

### **General**

1. The WIPO training program in the field of copyright and neighboring rights for developing countries which represents a major part of WIPO's development cooperation activities is designed to train officials from developing countries with the main purpose of assisting those countries in having specialized staff necessary for the efficient functioning of the national copyright and neighboring rights administrations.

2. During 1979 the training program consisted of individual training with authors' societies and other copyright or neighboring rights institutions as well as through training courses.

3. Unlike in preceding years, when a one-week symposium used to be organized by WIPO in Geneva for training in copyright and neighboring rights concentrated on the respective international conventions administered by WIPO, in 1979 a three-week training course was organized with emphasis on teaching the basic notions of copyright, followed by lectures concerning the international protection of copyright as well as the various aspects of the protection of neighboring rights. The other course organized in 1979 was a one-week symposium on copyright and neighboring rights, with the main emphasis on neighboring rights. The training courses have been organized in cooperation with host countries offering their assistance: with Hungary and Sweden respectively.

4. In 1979, the training program in this field was not only qualitatively but quantitatively enlarged. Compared with 25 fellowships granted in 1978, during 1979, out of 67 applicants 38 were awarded to officials from the following 27 developing countries and two organizations: Angola, Benin, Brazil, Burundi, Cameroon, Central African Republic, Congo, Ecuador, Fiji, Ghana, Guinea, India, Indonesia, Lesotho, Madagascar, Malaysia, Mali, Mexico, Mozambique, Niger, Nigeria, Philippines, Republic of Korea, Rwanda, Thailand, Togo, Zaire; the National Liberation Movement of Zimbabwe and the Palestine Liberation Organization. Twenty-three trainees came from 17 African countries and the National Liberation Movement of Zimbabwe; five trainees from three Latin American countries; ten trainees from seven Asian or Pacific countries and the PLO.

5. In all, 32 fellows attended the two training courses organized in 1979; 30 of them thereafter have

also undergone individual training in various countries. In addition six fellows received individual training without having attended any of the training courses.

### **Individual Training**

6. The following eleven countries and nine organizations received fellows under the 1979 training program for individual training: Belgium, France, Germany (Federal Republic of), India, Japan, Mexico, Netherlands, Senegal, Switzerland, United Kingdom, United States of America; the International Confederation of Societies of Authors and Composers (CISAC, Paris), the Argentine Society of Authors and Music Composers (SADAIC, Buenos Aires), the Belgian Society of Authors, Composers and Publishers (SABAM, Brussels), the Society of Authors, Composers and Music Publishers (SACEM, Paris), the National Union of Publishers of Phonograms and Videograms (SNEPA, Paris), the Musical Performing and Mechanical Reproduction Rights Society (GEMA, Munich—Berlin (West)), the Hungarian Bureau of Copyright Protection (ARTISJUS, Budapest), the Association for Musical Performance Rights (BUMA, Amsterdam), the Swiss Society for the Administration of Authors' Rights in Musical Performances and Broadcasts (SUISA, Zurich). Austria and Italy likewise offered training possibilities which, however, could not be realized in 1979.

7. The following countries and organizations respectively contributed in full or in part towards the payment of the costs of the travel expenses and/or subsistence allowances of fellows received for individual training:

- (i) full payment: the United Kingdom, for two trainees from India and Malaysia;
- (ii) partial payment: Germany (Federal Republic of) for two trainees from Cameroon and Lesotho; Hungary, for one trainee from Angola; India, for two trainees from Fiji and Indonesia; Japan, for one trainee from Thailand; Mexico, for two trainees from Ecuador and Mozambique; the Netherlands, for four trainees, from Fiji, Indonesia, Nigeria and Thailand; Switzerland, for one trainee from Mali; GEMA (Munich—Berlin (West)) for two trainees, from Cameroon and Lesotho; SUISA (Zurich) for six trainees from Angola, Burundi, Guinea, Madagascar, Mali and Niger.

The costs of the training not covered by countries or organizations were borne by the budget of the WIPO Legal-Technical Assistance Program.

#### **Hungary/WIPO General Introductory Training Course**

8. Besides the individual training offered to the trainees, WIPO organized in cooperation with the Government of Hungary and the Hungarian Bureau for Copyright Protection (ARTISJUS, Budapest) for the first time a general introductory training course on copyright and neighboring rights. The Hungary/WIPO training course took place in Budapest, from October 15 to November 2, 1979, at the headquarters of the Hungarian Chamber of Commerce. The Hungarian authorities covered the major part of the subsistence allowances of the trainees and paid in full the accommodation and honoraria for four lecturers invited in their personal capacity. The remainder of the costs were borne by the budget of the WIPO Legal-Technical Assistance Program.

9. The following international non-governmental and other organizations also contributed to the program of this course: the International Confederation of Societies of Authors and Composers (CISAC), the International Federation of Actors (FIA), the International Federation of Musicians (FIM), the International Federation of Producers of Phonograms and Videograms (IFPI), the European Broadcasting Union (EBU) and the All-Union Copyright Agency of the Soviet Union (VAAP).

10. Twenty-two fellows from Angola, Benin, Burundi, Cameroon, the Central African Republic, Congo, Fiji, Guinea, India, Indonesia, Lesotho, Madagascar, Malaysia, Mali, Mozambique, the Niger, Nigeria, Rwanda, Thailand, Zaire as well as from the National Liberation Movement of Zimbabwe and the PLO attended the introductory course.

11. The program of the introductory course comprised the following:

- (i) Introduction to copyright (introduction; basic notions of copyright: administration of copyright laws, the Hungarian experience; the role of authors' societies).
- (ii) The utilization of authors' works (publishing contracts and the promotion of creative activity; international cooperation in the field of book publishing; some aspects of the international activity of publishers; music publishing and the role of music publishing agreements in international relations; public use of musical works; contracts for stage performances and the promotion of creative activity; contracts for cinematographic adaptations; contracts for broadcasting).

- (iii) Copyright legislation (the Tunis Model Law on Copyright; new copyright legislation in developing countries).
- (iv) International copyright (the international protection of copyright; the Berne Convention: basic rules; special rules in favor of developing countries).
- (v) Neighboring rights (basic notions of neighboring rights; the Rome Convention on neighboring rights; the Phonograms Convention; the Satellites Convention; practical aspects of the Rome Convention from the viewpoint of performing artists; practical problems relating to the implementation of the Rome Convention from the viewpoint of the producers of phonograms; broadcasting: traditional and via satellites; the rights of performers and producers of phonograms concerning broadcasting and any communication to the public).
- (vi) Establishing the protection of copyright and neighboring rights for developing countries; WIPO, copyright and neighboring rights, and developing countries.

12. The lectures were given by officials of WIPO, the Hungarian Bureau for Copyright Protection, by representatives of the international non-governmental organizations contributing to the program and by the guest lecturers.

13. The trainees also visited the headquarters of the Hungarian Bureau for Copyright Protection (ARTISJUS), the Publishing House "Europa," the Film Production Enterprise MAFILM, the premises of Hungaroton, Enterprise for Phonogram Production.

#### **Copyright and Neighboring Rights Symposium organized in Cooperation with the Swedish Government and the Swedish International Development Authority (SIDA)**

14. A Symposium on Copyright and Neighboring Rights for Developing Countries had been organized by WIPO in cooperation with the Government of Sweden and the Swedish International Development Authority (SIDA) in Stockholm, from June 11 to 16, 1979, at the Hotel Foresta, with the special emphasis on neighboring rights. SIDA covered in full all costs of the participating trainees.

15. The following non-governmental organizations also contributed to the program of this course: the International Federation of Producers of Phonograms and Videograms (IFPI), the European Broadcasting Union (EBU), the Swedish Performing Rights Society (STIM), the Union of Swedish Musicians, the Swedish Broadcasting Corporation (Sveriges Radio).

16. Ten fellows from Brazil, the Congo, Ghana, India, Indonesia, Mexico, Nigeria, the Philippines, Togo and Zaire attended the Symposium.

17. The program comprised the following lectures: introduction to copyright and to the role of copyright in the development of developing countries; introduction to neighboring rights and to the role of neighboring rights in the development of developing countries; in both cases with reference to national laws and international conventions; general outline of copyright and neighboring rights legislation in Nordic countries; protection provided for performers, producers of phonograms and broadcasting organizations; administrative infrastructure for the protection of composers; administrative infrastructure for the protection of performers; administrative infrastructure for the protection of producers of phonograms; broadcasting and its relations to copyright and neigh-

boring rights; protection of broadcasting organizations regarding distribution of programme-carrying signals transmitted by satellite.

18. The lectures were delivered by officials of WIPO, the Swedish Ministry of Justice, the Danish Ministry of Culture, and representatives of non-governmental organizations contributing to the program.

19. The fellows also visited the Swedish Performing Rights Society (STIM), the Trade Association of Swedish Artists and Musicians (SAMI), a Swedish record producer and the Swedish Broadcasting Corporation (Sveriges Radio).

20. The English-speaking trainees remained in Stockholm until June 22, 1979, and also visited the Swedish Group of IFPI and the Supreme Court of Sweden.

## Expert Group on the Legal Protection of Computer Software

### First Session

(Geneva, November 27 to 30, 1979)

#### Note \*

The Expert Group on the Legal Protection of Computer Software (hereinafter referred to as "the Expert Group") held its first session in Geneva from November 27 to 30, 1979.

Twenty States, members of WIPO, of the International (Paris) Union for the Protection of Industrial Property and/or of the International (Berne) Union for the Protection of Literary and Artistic Works, and, as observers, four intergovernmental organizations and seven international non-governmental organizations participated in the meeting. The list of participants follows this Note.

The Expert Group first considered the extent to which the legal protection of computer software was at present ensured by national or regional legislative provisions or by the application of case law. It emerged from the discussion that at present there were no special legislative provisions that afforded such protection, either on the national or on the regional level, except in Bulgaria. The majority of the participants said that the legal situation was uncer-

tain in their countries, although all of them admitted that software protection was desirable. In some countries, the existing protection proved to be sufficient for the time being. It was agreed that the protection, whenever it was not available, should be derived from copyright legislation, from the legislation on the protection of trade secrets or the protection against unfair competition or from specific legislation, such as that embodied in the "Model Provisions on the Protection of Computer Software," published by the International Bureau in 1978.

With regard to the desirability of a treaty for the protection of computer software, the Expert Group examined in detail what the contents of such a treaty might be and then considered the provisions of the existing international conventions, in particular the Paris Convention and the Berne Convention. It noted that the provisions of those Conventions did not fully cover the protection which should be granted to computer software. It was agreed that the question of the desirability of a special treaty for the protection of computer software should be further studied.

The Expert Group also examined other measures which could enhance international cooperation in the field of legal protection of computer software, in particular the possibility of establishing an international deposit system for computer software.

\* This Note has been prepared by the International Bureau.

As regards future work, the Expert Group recommended that the International Bureau prepare a questionnaire which should cover the problems raised in connection with international protection of computer software and any related questions. The International Bureau should also prepare a questionnaire dealing in particular with the desirability of additional treaty provisions from the point of view of the creators of computer software and other interested parties. Finally, the Expert Group recommended that the replies to the questionnaires should be taken into account for the further study by the International Bureau on the desirability and feasibility of a treaty on the protection of computer software and/or adaptation of one or more existing treaties.

### List of Participants

#### I. States

**Bulgaria:** I. Kotzev; I. Eskenazi. **Chile:** P. Oyarce. **Czechoslovakia:** J. Čížek. **Denmark:** J. Nørup-Nielsen. **Finland:** J. Rainesalo. **France:** M. Disdier. **Germany (Federal Republic of):** R. von Falckenstein. **Hungary:** G. Pálos. **India:** S. S. Oberoi. **Italy:** G. Catalini. **Mexico:** J. M. Terán-Contreras; O. Garrido-Ruiz. **Netherlands:** H. S. Furstner; D. W. F. Verkade; J. E. M. Galama. **Norway:** J. Bing. **Portugal:** J. Mota Maia; R. Serrão. **Soviet Union:** B. I. Rameev; Y. Plotnikov; I. F. Chkradiuk; V. Poliakov. **Spain:** E. Rua Benito. **Sweden:** A. H. Olsson; J. E. Bodin. **Switzerland:** J.-L. Marro. **United Kingdom:** V. Tarnofsky; P. Ferdinando. **United States of America:** M. S. Keplinger; J. J. Sheehan.

#### II. United Nations

N. Haley; S. A. Parker; R. Watt.

#### III. Intergovernmental Organizations

**Commission of the European Communities (CEC):** B. Harris; R. P. Braubach. **European Patent Organisation (EPO):** G. Korsakoff; P. K. J. van den Berg. **Intergovernmental Bureau for Informatics:** O. Rateau.

#### IV. Non-Governmental Organizations

**Committee of National Institutes of Patent Agents (CNIPA):** J. U. Neukom; J. E. M. Galama. **Council of European Industrial Federations (CEIF):** N. A. Killgren. **European Computer Manufacturers Association (ECMA):** G. Kretzschmar. **European Federation of Agents of Industry in Industrial Property (FEMAPI):** G. P. Hommery; L. E. Johansson; B. Villinger. **European Industrial Research Management Association (EIRMA):** M. Kindermann. **International Publishers Association (IPA):** J. A. Koutchoumow. **Union of Industries of the European Community (UNICE):** W. Boekel; H. Pe-roebner.

#### V. Officers

*Chairman:* V. Tarnofsky (United Kingdom). *Vice-Chairmen:* S. S. Oberoi (India); B. I. Rameev (Soviet Union). *Secretary:* F. Curchod (WIPO).

#### VI. WIPO

L. Baeumer (*Director, Industrial Property Division*); F. Curchod (*Head, Special Projects Section, Industrial Property Division*); V. A. Moujjevlev (*Program Officer, Industrial Property Division*); E. Geiger (*Assistant, Legal Documentation, Legislation and Periodicals Section, Industrial Property Division*).

## Berne Union

### Members of the International Union for the Protection of Literary and Artistic Works (Berne Union)

founded by the Berne Convention (1886), completed at Paris (1896), revised at Berlin (1908),  
completed at Berne (1914), revised at Rome (1928), Brussels (1948), Stockholm (1967) and Paris (1971)

as on January 1, 1980

State	Class	Date on which membership in the Union took effect	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
Argentina . . . . .	IV	June 10, 1967 . . . . .	Brussels: June 10, 1967
Australia . . . . .	III	April 14, 1928 <sup>1</sup> . . . . .	Paris: March 1, 1978
Austria . . . . .	VI	October 1, 1920 . . . . .	Brussels: October 14, 1953
			Administration: Stockholm: August 18, 1973 <sup>7</sup>
Bahamas . . . . .	VII	July 10, 1973 <sup>1</sup> . . . . .	Brussels: July 10, 1973 <sup>5</sup>
			Administration: Paris: January 8, 1977 <sup>6, 14</sup>
Belgium . . . . .	III	December 5, 1887 . . . . .	Brussels: August 1, 1951
			Administration: Stockholm: February 12, 1975 <sup>7</sup>
Benin . . . . .	VII	January 3, 1961 <sup>1, 4</sup> . . . . .	Paris: March 12, 1975
Brazil . . . . .	III	February 9, 1922 . . . . .	Paris: April 20, 1975
Bulgaria . . . . .	VI	December 5, 1921 . . . . .	Paris: December 4, 1974 <sup>3, 6</sup>
Cameroon . . . . .	VI	September 21, 1964 <sup>1, 4</sup> . . . . .	Paris: October 10, 1974
			Administration: Paris: November 10, 1973
Canada . . . . .	III	April 10, 1928 <sup>1</sup> . . . . .	Rome: August 1, 1931
			Administration: Stockholm: July 7, 1970 <sup>7</sup>
Central African Republic . . . . .	VII	September 3, 1977 <sup>1</sup> . . . . .	Paris: September 3, 1977
Chad . . . . .	VII	November 25, 1971 <sup>1</sup> . . . . .	Brussels: November 25, 1971 <sup>5, 10, 13</sup>
			Administration: Stockholm: November 25, 1971 <sup>10</sup>
Chile . . . . .	VI	June 5, 1970 . . . . .	Paris: July 10, 1975
Congo . . . . .	VII	May 8, 1962 <sup>1, 4</sup> . . . . .	Paris: December 5, 1975
Costa Rica . . . . .	VII	June 10, 1978 . . . . .	Paris: June 10, 1978
Cyprus . . . . .	VI	February 22, 1964 <sup>1, 4</sup> . . . . .	Rome: February 24, 1964 <sup>4, 8</sup>
Czechoslovakia . . . . .	IV	February 22, 1921 . . . . .	Rome: November 30, 1936
Denmark . . . . .	IV	July 1, 1903 . . . . .	Paris: June 30, 1979
Egypt . . . . .	VII	June 7, 1977 . . . . .	Paris: June 7, 1977 <sup>6</sup>
Fiji . . . . .	VII	December 1, 1971 <sup>1, 4</sup> . . . . .	Brussels: December 1, 1971 <sup>4, 5</sup>
			Administration: Stockholm: March 15, 1972 <sup>7</sup>
Finland . . . . .	IV	April 1, 1928 . . . . .	Brussels: January 28, 1963
			Administration: Stockholm: September 15, 1970 <sup>7</sup>
France . . . . .	I	December 5, 1887 . . . . .	Paris: October 10, 1974
			Administration: Paris: December 15, 1972
Gabon . . . . .	VII	March 26, 1962 <sup>1</sup> . . . . .	Paris: June 10, 1975
German Democratic Republic . . . . .	IV	December 5, 1887 <sup>9</sup> . . . . .	Paris: February 18, 1978 <sup>6</sup>
Germany, Federal Republic of . . . . .	I	December 5, 1887 <sup>9</sup> . . . . .	Paris: October 10, 1974 <sup>2</sup>
			Administration: Paris: January 22, 1974
Greece . . . . .	VI	November 9, 1920 . . . . .	Paris: March 8, 1976
Holy See . . . . .	VII	September 12, 1935 . . . . .	Paris: April 24, 1975
Hungary . . . . .	VI	February 14, 1922 . . . . .	Paris: October 10, 1974
			Administration: Paris: December 15, 1972 <sup>6</sup>
Iceland <sup>11</sup> . . . . .	VI	September 7, 1947 . . . . .	Rome: September 7, 1947
India . . . . .	IV	April 1, 1928 <sup>1</sup> . . . . .	Brussels: October 21, 1958
			Administration: Paris: January 10, 1975 <sup>6, 14</sup>
Ireland . . . . .	IV	October 5, 1927 <sup>1</sup> . . . . .	Brussels: July 5, 1959
			Administration: Stockholm: December 21, 1970 <sup>7</sup>
Israel . . . . .	VI	March 24, 1950 <sup>1</sup> . . . . .	Brussels: August 1, 1951
			Administration: Stockholm: January 29 or February 26, 1970 <sup>7, 15</sup>

State	Class	Date on which membership in the Union took effect	Latest Act by which the State is bound and date on which the ratification of or accession to such Act became effective
<b>Italy</b>	III	<b>December 5, 1887</b>	<b>Paris: November 14, 1979</b>
<b>Ivory Coast</b>	VI	<b>January 1, 1962</b> <sup>1</sup>	Substance: <b>Paris: October 10, 1974</b> Administration: <b>Paris: May 4, 1974</b>
<b>Japan</b> <sup>11</sup>	II	<b>July 15, 1899</b>	<b>Paris: April 24, 1975</b>
<b>Lebanon</b>	VI	<i>September 30, 1947</i> <sup>1</sup>	<i>Rome: September 30, 1947</i> <sup>8</sup>
<b>Libyan Arab Jamahiriya</b>	VI	<b>September 28, 1976</b>	<b>Paris: September 28, 1976</b> <sup>6</sup>
<b>Liechtenstein</b>	VII	<b>July 30, 1931</b>	Substance: Brussels: August 1, 1951 Administration: Stockholm: May 25, 1972 <sup>7</sup>
<b>Luxembourg</b>	VII	<b>June 20, 1888</b>	<b>Paris: April 20, 1975</b>
<b>Madagascar</b>	VI	<b>January 1, 1966</b> <sup>1</sup>	Brussels: January 1, 1966 <sup>5</sup>
<b>Mali</b>	VII	<b>March 19, 1962</b> <sup>1,4</sup>	<b>Paris: December 5, 1977</b>
<b>Malta</b>	VII	<i>September 21, 1964</i> <sup>1</sup>	Substance: <i>Rome: September 21, 1964</i> <sup>8</sup> Administration: <b>Paris: December 12, 1977</b> <sup>6,14</sup>
<b>Mauritania</b>	VII	<b>February 6, 1973</b> <sup>1</sup>	<b>Paris: September 21, 1976</b>
<b>Mexico</b>	IV	<b>June 11, 1967</b>	<b>Paris: December 17, 1974</b> <sup>17</sup>
<b>Monaco</b>	VII	<b>May 30, 1889</b>	<b>Paris: November 23, 1974</b>
<b>Morocco</b>	VI	<b>June 16, 1917</b>	Substance: Brussels: May 22, 1952 Administration: Stockholm: August 6, 1971 <sup>7</sup>
<b>Netherlands</b>	III	<b>November 1, 1912</b>	Substance: Brussels: January 7, 1973 Administration: <b>Paris: January 10, 1975</b> <sup>14</sup>
<b>New Zealand</b>	V	<i>April 24, 1928</i> <sup>1</sup>	<i>Rome: December 4, 1947</i>
<b>Niger</b>	VII	<b>May 2, 1962</b> <sup>1,4</sup>	<b>Paris: May 21, 1975</b> <sup>17</sup>
<b>Norway</b>	IV	<b>April 13, 1896</b>	Substance: Brussels: January 28, 1963 <sup>2</sup> Administration: <b>Paris: June 13, 1974</b> <sup>14</sup>
<b>Pakistan</b>	VI	<i>July 5, 1948</i> <sup>1</sup>	Substance: <i>Rome: July 5, 1948</i> <sup>3,8,10</sup> Administration: <i>Stockholm: January 29 or February 26, 1970</i> <sup>10,15</sup>
<b>Philippines</b>	VI	<b>August 1, 1951</b>	Brussels: August 1, 1951
<b>Poland</b>	V	<i>January 28, 1920</i>	<i>Rome: November 21, 1935</i>
<b>Portugal</b>	V	<b>March 29, 1911</b>	<b>Paris: January 12, 1979</b>
<b>Romania</b>	V	<i>January 1, 1927</i>	Substance: <i>Rome: August 6, 1936</i> <sup>10</sup> Administration: <i>Stockholm: January 29 or February 26, 1970</i> <sup>6,10,15</sup>
<b>Senegal</b>	VI	<b>August 25, 1962</b> <sup>1</sup>	<b>Paris: August 12, 1975</b> <sup>3</sup>
<b>South Africa</b>	IV	<b>October 3, 1928</b> <sup>1</sup>	Substance: Brussels: August 1, 1951 Administration: <b>Paris: March 24, 1975</b> <sup>6,14</sup>
<b>Spain</b>	II	<b>December 5, 1887</b>	Substance: <b>Paris: October 10, 1974</b> Administration: <b>Paris: February 19, 1974</b>
<b>Sri Lanka</b>	VII	<i>July 20, 1959</i> <sup>1,4</sup>	Substance: <i>Rome: July 20, 1959</i> <sup>4,8</sup> Administration: <b>Paris: September 23, 1978</b> <sup>14</sup>
<b>Suriname</b>	VII	<b>February 23, 1977</b> <sup>1</sup>	<b>Paris: February 23, 1977</b> <sup>17</sup>
<b>Sweden</b>	III	<b>August 1, 1904</b>	Substance: <b>Paris: October 10, 1974</b> <sup>3</sup> Administration: <b>Paris: September 20, 1973</b>
<b>Switzerland</b>	III	<b>December 5, 1887</b>	Substance: Brussels: January 2, 1956 Administration: Stockholm: May 4, 1970 <sup>7</sup>
<b>Thailand</b> <sup>12</sup>	VI	<b>July 17, 1931</b>	Berlin: July 17, 1931
<b>Togo</b>	VII	<b>April 30, 1975</b> <sup>1</sup>	<b>Paris: April 30, 1975</b>
<b>Tunisia</b>	VI	<b>December 5, 1887</b>	<b>Paris: August 16, 1975</b> <sup>6,17</sup>
<b>Turkey</b> <sup>11</sup>	VI	<b>January 1, 1952</b>	Brussels: January 1, 1952
<b>United Kingdom</b>	I	<b>December 5, 1887</b>	Substance: Brussels: December 15, 1957 <sup>2</sup> Administration: Stockholm: January 29 or February 26, 1970 <sup>7,15</sup>
<b>Upper Volta</b>	VII	<b>August 19, 1963</b> <sup>1,16</sup>	<b>Paris: January 24, 1976</b>
<b>Uruguay</b>	VII	<b>July 10, 1967</b>	<b>Paris: December 28, 1979</b>
<b>Yugoslavia</b> <sup>11</sup>	V	<b>June 17, 1930</b>	<b>Paris: September 2, 1975</b>
<b>Zaire</b>	VI	<b>October 8, 1963</b> <sup>1,4</sup>	<b>Paris: January 31, 1975</b>

(Total: 71 States)

- <sup>1</sup> The Convention had also been applied, by virtue of the provisions concerning dependent territories, to the territories of the States listed hereafter before their accession to independence as from the following dates: December 5, 1887 (Australia, Bahamas, Benin, Cameroon, Canada, Central African Republic, Chad, Congo, Fiji, Gabon, India, Ireland, Ivory Coast, Madagascar, Mali, Malta, Mauritania, New Zealand, Niger, Pakistan, Senegal, South Africa, Upper Volta); April, 1913 (Suriname); March 21, 1924 (Israel); August 1, 1924 (Lebanon); October 1, 1931 (Cyprus, Sri Lanka); December 20, 1948 (Zaire); May 22, 1952 (Togo).
- <sup>2</sup> This country has declared that it admits the application of the Appendix to the Paris Act to works of which it is the country of origin by countries which have made a declaration under Article VI(1)(i) of the Appendix or a notification under Article I of the Appendix. The declarations took effect on October 18, 1973, for Germany (Federal Republic of), on March 8, 1974, for Norway, and on September 27, 1971, for the United Kingdom.
- <sup>3</sup> This country has made a declaration under Article 5(1) of the Protocol Regarding Developing Countries of the Stockholm Act. The text of that paragraph reads as follows:  
 “(1) Any country of the Union may declare, as from the signature of this Convention, and at any time before becoming bound by Articles 1 to 21 of this Convention and by this Protocol,  
 (a) in the case of a country referred to in Article 1 of this Protocol, that it intends to apply the provisions of this Protocol to works whose country of origin is a country of the Union which admits the application of the reservations under the Protocol, or  
 (b) that it admits the application of the provisions of the Protocol to works of which it is the country of origin by countries which, on becoming bound by Articles 1 to 21 of this Convention and by this Protocol, or on making a declaration of application of this Protocol by virtue of the provision of sub-paragraph (a), have made reservations permitted under this Protocol.”  
 The declaration became effective on the day of its deposit, namely: on November 14, 1967, for Senegal (sub-paragraph (a)); on January 11, 1968, for Bulgaria (sub-paragraph (b)); on August 12, 1969, for Sweden (sub-paragraph (b)); on November 26, 1969, for Pakistan (sub-paragraph (a)).
- <sup>4</sup> Date on which the declaration of continued adherence was sent, after the accession of the country to independence.
- <sup>5</sup> The Brussels Act had also been applied, by virtue of its Article 26, to the territories of the following States before their accession to independence as from the dates indicated: Bahamas (August 19, 1963); Chad (May 22, 1952); Fiji (March 6, 1962); Madagascar (May 22, 1952).
- <sup>6</sup> Accession or ratification with the declaration provided for in Article 33(2).
- <sup>7</sup> In ratifying (or acceding to) the Stockholm Act, this country made a declaration to the effect that its ratification (or accession) did not apply to Articles 1 to 21 and to the Protocol Regarding Developing Countries (see Article 28(1)(b)(i) of the Stockholm Act). Accordingly, this country is bound by the said Act only as far as the administrative provisions (Articles 22 to 26) and the final clauses (Articles 27 to 38) are concerned.
- <sup>8</sup> The Rome Act had also been applied, by virtue of its Article 26, to the territories of the following States before their accession to independence as from the dates indicated: Cyprus (October 1, 1931); Lebanon (December 24, 1933); Malta (October 1, 1931); Pakistan (August 1, 1931); Sri Lanka (October 1, 1931).
- <sup>9</sup> Date on which the accession by the German Empire became effective.
- <sup>10</sup> This country deposited its instrument of ratification of (or of accession to) the Stockholm Act in its entirety; however, Articles 1 to 21 (substantive clauses) of the said Act have not entered into force.
- <sup>11</sup> Accession or ratification subject to the reservation concerning the right of translation (for Japan, until December 31, 1980).
- <sup>12</sup> Accession subject to reservations concerning works of applied art, conditions and formalities required for protection, the right of translation, the right of reproduction of articles published in newspapers or periodicals, the right of performance, and the application of the Convention to works not yet in the public domain at the date of its coming into force.
- <sup>13</sup> In accordance with the provisions of Article 29 of the Stockholm Act applicable to the countries outside the Union which accede to the said Act, this country is bound by Articles 1 to 20 of the Brussels Act.
- <sup>14</sup> In ratifying (or acceding to) the Paris Act, this country made a declaration to the effect that its ratification (or accession) did not apply to Articles 1 to 21 and to the Appendix (see Article 28(1)(b) of the Paris Act). Accordingly, this country is bound by the said Act only as far as the administrative provisions (Articles 22 to 26) and the final clauses (Articles 27 to 38) are concerned.
- <sup>15</sup> These are the alternative dates of entry into force which the Director General of WIPO communicated to the States concerned.
- <sup>16</sup> Upper Volta, which had acceded to the Berne Convention (Brussels Act) as from August 19, 1963, denounced the said Convention as from September 20, 1970. Later on, Upper Volta acceded again to the Berne Convention (Paris Act); this accession took effect on January 24, 1976.
- <sup>17</sup> Pursuant to Article I of the Appendix to the Paris Act, this country availed itself of the faculties provided for in Articles II and III of the said Appendix.

Explanation of type: *Italics*: States bound by the Rome Act (1928). Roman type: States bound by the Brussels Act (1948). **Heavy type**: States bound by the Paris Act (1971). Thailand: State bound by the Berlin Act (1908).

## Membership of the Governing Bodies of the Berne Union

On January 1, 1980, the membership of the Governing Bodies of the Berne Union was as follows:

*Assembly*: Australia, Austria, Bahamas, Belgium, Benin, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, Chad, Chile, Congo, Costa Rica, Denmark, Egypt, Fiji, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Greece, Holy See, Hungary, India, Ireland, Israel, Italy, Ivory Coast, Japan, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Mali, Malta, Mauritania, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Pakistan, Portugal, Romania, Sene-

gal, South Africa, \* Spain, Sri Lanka, Suriname, Sweden, Switzerland, Togo, Tunisia, United Kingdom, Upper Volta, Uruguay, Yugoslavia, Zaire (60).

*Conference of Representatives*: Argentina, Cyprus, Czechoslovakia, Iceland, Lebanon, Madagascar, New Zealand, Philippines, Poland, Thailand, Turkey (11).

*Executive Committee*: ORDINARY MEMBERS: Austria, Belgium, Cameroon, Canada, German Democratic Republic, Hungary, India, Mexico, Spain, Sri Lanka, Switzerland, Tunisia, United Kingdom, Upper Volta, Zaire (15). ASSOCIATE MEMBERS: Argentina, Czechoslovakia, Turkey (3).

\* According to a decision of the WIPO Coordination Committee, not to be invited “to any meeting of WIPO and its Bodies and Unions” (see *Copyright*, 1977, p. 296).

## Conventions Administered by WIPO

### International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

(Rome, October 26, 1961)

#### State of Ratifications or Accessions as on January 1, 1980

Contracting State	Entry into force	Contracting State	Entry into force
Austria *	June 9, 1973	Guatemala	January 14, 1977
Brazil	September 29, 1965	Ireland *	September 19, 1979
Chile	September 5, 1974	Italy *	April 8, 1975
Colombia	September 17, 1976	Luxembourg *	February 25, 1976
Congo *	May 18, 1964	Mexico	May 18, 1964
Costa Rica	September 9, 1971	Niger *	May 18, 1964
Czechoslovakia *	August 14, 1964	Norway *	July 10, 1978
Denmark *	September 23, 1965	Paraguay	February 26, 1970
Ecuador	May 18, 1964	Sweden *	May 18, 1964
El Salvador	June 29, 1979	United Kingdom *	May 18, 1964
Fiji *	April 11, 1972	Uruguay	July 4, 1977
Germany, Federal Republic of *	October 21, 1966		Total: 23 States)

*Note:* The secretarial tasks relating to this Convention are performed jointly with the International Labour Office and Unesco.

\* The instruments of ratification or accession deposited with the Secretary-General of the United Nations by the following countries contain declarations made under the Articles mentioned hereafter (with reference to publication in *Le Droit d'Auteur (Copyright)* for the years 1962 to 1964 and in *Copyright* since 1965):

*Austria*, Article 16(1)(a)(iii) and (iv) and (1)(b) [1973, p. 67];  
*Congo*, Articles 5(3) (concerning Article 5(1)(c)) and 16(1)(a)(i) [1964, p. 127];  
*Czechoslovakia*, Article 16(1)(a)(iii) and (iv) [1964, p. 110];  
*Denmark*, Articles 6(2), 16(1)(a)(ii) and (iv) and 17 [1965, p. 214];  
*Fiji*, Articles 5(3) (concerning Article 5(1)(b)), 6(2) and 16(1)(a)(i) [1972, pp. 88 and 178];  
*Germany (Federal Republic of)*, Articles 5(3) (concerning Article 5(1)(b)) and 16(1)(a)(iv) [1966, p. 237];  
*Ireland*, Articles 5(3) (concerning Article 5(1)(b)), 6(2) and 16(1)(a)(ii) [1979, p. 218];  
*Italy*, Articles 6(2), 16(1)(a)(ii), (iii) and (iv), 16(1)(b) and 17 [1975, p. 44];  
*Luxembourg*, Articles 5(3) (concerning Article 5(1)(c)), 16(1)(a)(i) and 16(1)(b) [1976, p. 24];  
*Niger*, Articles 5(3) (concerning Article 5(1)(c)) and 16(1)(a)(i) [1963, p. 155];  
*Norway*, Articles 6(2) and 16(1)(a)(ii), (iii) and (iv) [1978, p. 133];  
*Sweden*, Articles 6(2), 16(1)(a)(ii) and (iv), 16(1)(b) and 17 [1962, p. 138];  
*United Kingdom*, Articles 5(3) (concerning Article 5(1)(b)), 6(2) and 16(1)(a)(ii), (iii) and (iv) [1963, p. 244]; the same declarations were made for Gibraltar and Bermuda [1967, p. 36, and 1970, p. 108].

#### Membership of the Intergovernmental Committee

On January 1, 1980, the membership of the Intergovernmental Committee established under Article 32 of the Rome Convention was as follows: Austria, Brazil, Colombia, Czechoslovakia, Denmark, Ecuador, Fiji, Mexico, Niger, Paraguay, Sweden, United Kingdom (12).

## Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

(Geneva, October 29, 1971)

### State of Ratifications or Accessions as on January 1, 1980

Contracting State	Entry into force	Contracting State	Entry into force
Argentina . . . . .	June 30, 1973	Israel . . . . .	May 1, 1978
Australia . . . . .	June 22, 1974	Italy * . . . . .	March 24, 1977
Brazil . . . . .	November 28, 1975	Japan . . . . .	October 14, 1978
Chile . . . . .	March 24, 1977	Kenya . . . . .	April 21, 1976
Denmark . . . . .	March 24, 1977	Luxembourg . . . . .	March 8, 1976
Ecuador . . . . .	September 14, 1974	Mexico . . . . .	December 21, 1973
Egypt . . . . .	April 23, 1978	Monaco . . . . .	December 2, 1974
El Salvador . . . . .	February 9, 1979	New Zealand . . . . .	August 13, 1976
Fiji . . . . .	April 18, 1973	Norway . . . . .	August 1, 1978
Finland * . . . . .	April 18, 1973	Panama . . . . .	June 29, 1974
France . . . . .	April 18, 1973	Paraguay . . . . .	February 13, 1979
Germany, Federal Republic of . . . . .	May 18, 1974	Spain . . . . .	August 24, 1974
Guatemala . . . . .	February 1, 1977	Sweden * . . . . .	April 18, 1973
Holy See . . . . .	July 18, 1977	United Kingdom . . . . .	April 18, 1973
Hungary . . . . .	May 28, 1975	United States of America . . . . .	March 10, 1974
India . . . . .	February 12, 1975	Zaire . . . . .	November 29, 1977

(Total: 32 States)

\* This country has declared, in accordance with Article 7(4) of the Convention, that it will apply the criterion according to which it affords protection to producers of phonograms solely on the basis of the place of first fixation instead of the criterion of the nationality of the producer (*Copyright*, 1973, pp. 25 and 35, and 1977, p. 45).

## Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite

(Brussels, May 21, 1974)

### State of Ratifications or Accessions as on January 1, 1980

Contracting State	Date of deposit of instrument	Entry into force
Germany, Federal Republic of * . . . . .	May 25, 1979	August 25, 1979
Kenya . . . . .	January 6, 1976	August 25, 1979
Mexico . . . . .	March 18, 1976	August 25, 1979
Nicaragua . . . . .	December 1, 1975	August 25, 1979
Yugoslavia . . . . .	December 29, 1976	August 25, 1979

(Total: 5 States)

\* With a declaration, pursuant to Article 2(2) of the Convention, that the protection accorded under Article 2(1) is restricted in its territory to a period of 25 years after the expiry of the calendar year in which the transmission by satellite has occurred.

## Conventions Not Administered by WIPO

### Universal Copyright Convention

State of Ratifications or Accessions as on January 1, 1980<sup>1</sup>

Contracting State	Entry into force		Contracting State	Entry into force	
	Text of 1952	Text of 1971		Text of 1952	Text of 1971
Algeria <sup>2</sup>	August 28, 1973	July 10, 1974	Ireland	January 20, 1959	
Andorra	September 16, 1955		Israel	September 16, 1955	
Argentina	February 13, 1958		Italy	January 24, 1957	
Australia	May 1, 1969	February 28, 1978	Japan	April 28, 1956	October 21, 1977
Austria	July 2, 1957		Kenya	September 7, 1966	July 10, 1974
Bahamas	December 27, 1976	December 27, 1976	Laos	September 16, 1955	
Bangladesh <sup>2</sup>	August 5, 1975	August 5, 1975	Lebanon	October 17, 1959	
Belgium	August 31, 1960		Liberia	July 27, 1956	
Brazil	January 13, 1960	December 11, 1975	Liechtenstein	January 22, 1959	
Bulgaria	June 7, 1975	June 7, 1975	Luxembourg	October 15, 1955	
Cameroon	May 1, 1973	July 10, 1974	Malawi	October 26, 1965	
Canada	August 10, 1962		Malta	November 19, 1968	
Chile	September 16, 1955		Mauritius	March 12, 1968	
Colombia	June 18, 1976	June 18, 1976	Mexico <sup>2</sup>	May 12, 1957	October 31, 1975
Costa Rica	September 16, 1955	March 7, 1980	Monaco	September 16, 1955	December 13, 1974
Cuba	June 18, 1957		Morocco	May 8, 1972	January 28, 1976
Czechoslovakia	January 6, 1960		Netherlands	June 22, 1967	
Democratic Kampuchea	September 16, 1955		New Zealand	September 11, 1964	
Denmark	February 9, 1962	July 11, 1979	Nicaragua	August 16, 1961	
Ecuador	June 5, 1957		Nigeria	February 14, 1962	
El Salvador	March 29, 1979	March 29, 1979	Norway	January 23, 1963	August 7, 1974
Fiji	October 10, 1970		Pakistan	September 16, 1955	
Finland	April 16, 1963		Panama	October 17, 1962	
France	January 14, 1956	July 10, 1974	Paraguay	March 11, 1962	
German Democratic Republic	October 5, 1973		Peru	October 16, 1963	
Germany, Federal Republic of	September 16, 1955	July 10, 1974	Philippines	November 19, 1955	
Ghana	August 22, 1962		Poland	March 9, 1977	March 9, 1977
Greece	August 24, 1963		Portugal	December 25, 1956	
Guatemala	October 28, 1964		Senegal	July 9, 1974	July 10, 1974
Haiti	September 16, 1955		Soviet Union	May 27, 1973	
Holy See	October 5, 1955		Spain	September 16, 1955	July 10, 1974
Hungary	January 23, 1971	July 10, 1974	Sweden	July 1, 1961	July 10, 1974
Iceland	December 18, 1956		Switzerland	March 30, 1956	
India	January 21, 1958		Tunisia <sup>2</sup>	June 19, 1969	June 10, 1975
			United Kingdom	September 27, 1957	July 10, 1974
			United States of America	September 16, 1955	July 10, 1974
			Venezuela	September 30, 1966	
			Yugoslavia	May 11, 1966	July 10, 1974
			Zambia	June 1, 1965	

<sup>1</sup> According to the information received by the International Bureau.

<sup>2</sup> Pursuant to Article Vbis of the Convention as revised in 1971, this country availed itself of the exceptions provided for in Article Vter and Vquater in favor of developing countries.

*Editor's Note:* The three Protocols annexed to the Convention were ratified, accepted or acceded to separately; they concern: (1) the application of the Convention to the works of stateless persons and refugees, (2) the application of the Convention to the works of certain international organizations, and (3) the effective date of instruments of ratification or acceptance of or accession to the Convention. For detailed information in this respect, and as to notifications made by governments of certain Contracting States concerning the territorial application of the Convention and the Protocols, see the *Copyright Bulletin*, quarterly review published by Unesco.

#### Membership of the Intergovernmental Committee

On January 1, 1980, the membership of the Intergovernmental Committee established by Article XI of the Convention was as follows: Algeria, Australia, Brazil, Costa Rica, France, Germany (Federal Republic of), India, Israel, Japan, Mexico, Netherlands, Senegal, Soviet Union, Sweden, Tunisia, United Kingdom, United States of America, Yugoslavia (18).

## European Agreements

### State of Ratifications or Accessions as on January 1, 1980<sup>1</sup>

#### European Agreement concerning Programme Exchanges by means of Television Films

(Paris, December 15, 1958)

Contracting State	Entry into force
Belgium . . . . .	April 8, 1962
Cyprus . . . . .	February 20, 1970
Denmark . . . . .	November 25, 1961
France . . . . .	July 1, 1961
Greece . . . . .	February 9, 1962
Ireland . . . . .	April 4, 1965
Israel . . . . .	February 15, 1978
Luxembourg . . . . .	October 31, 1963
Netherlands . . . . .	March 5, 1967
Norway . . . . .	March 15, 1963
Spain . . . . .	January 4, 1974
Sweden . . . . .	July 1, 1961
Tunisia . . . . .	February 22, 1969
Turkey . . . . .	March 28, 1964
United Kingdom . . . . .	July 1, 1961

#### European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories

(Strasbourg, January 22, 1965)

Contracting State	Entry into force
Belgium . . . . .	October 19, 1967
Cyprus . . . . .	October 2, 1971
Denmark . . . . .	October 19, 1967
France . . . . .	April 6, 1968
Germany, Federal Republic of . . . . .	February 28, 1970
Ireland . . . . .	February 23, 1969
Liechtenstein . . . . .	February 14, 1977
Netherlands . . . . .	September 27, 1974
Norway . . . . .	October 17, 1971
Portugal . . . . .	September 7, 1969
Sweden . . . . .	October 19, 1967
Switzerland . . . . .	September 19, 1976
Turkey . . . . .	February 17, 1975
United Kingdom . . . . .	December 3, 1967

### European Agreement on the Protection of Television Broadcasts

#### *Agreement*

(Strasbourg, June 22, 1960)

Contracting State	Entry into force
Belgium * . . . . .	March 8, 1968
Cyprus . . . . .	February 22, 1970
Denmark * . . . . .	November 27, 1961
France . . . . .	July 1, 1961
Germany, Federal Republic of * . . . . .	October 9, 1967
Norway * . . . . .	August 10, 1968
Spain . . . . .	October 23, 1971
Sweden ** . . . . .	July 1, 1961
Turkey . . . . .	January 20, 1976
United Kingdom * . . . . .	July 1, 1961

#### *Protocol*

(Strasbourg, January 22, 1965)

Contracting State	Entry into force
Belgium . . . . .	March 8, 1968
Cyprus . . . . .	February 22, 1970
Denmark . . . . .	March 24, 1965
France . . . . .	March 24, 1965
Germany, Federal Republic of . . . . .	October 9, 1967
Norway . . . . .	August 10, 1968
Spain . . . . .	October 23, 1971
Sweden . . . . .	March 24, 1965
Turkey . . . . .	January 20, 1976
United Kingdom . . . . .	March 24, 1965

\* The instruments of ratification were accompanied by reservations in accordance with Article 3, paragraph 1, of the Agreement. As to Belgium, see *Copyright*, 1968, p. 147; as to Denmark, see *Le Droit d'Auteur*, 1961, p. 360; as to Germany (Federal Republic of), see *Copyright*, 1967, p. 217; as to Norway, see *ibid.*, 1968, p. 191; as to the United Kingdom, see *ibid.*, 1961, p. 152.

\*\* Sweden availed itself of the reservations contained in subparagraphs (b), (c) and (f) of paragraph 1 of Article 3 of the Agreement.

#### *Additional Protocol*

(Strasbourg, January 14, 1974)

The Additional Protocol entered into force on December 31, 1974, with respect to all States party to the European Agreement on the Protection of Television Broadcasts and the Protocol to the said Agreement.

<sup>1</sup> According to the information received by the International Bureau.

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## Calendar

### WIPO Meetings

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

1980

- February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**
- February 11 to 15 (Rio de Janeiro) — Permanent Committee for Patent Information (PCPI) — Working Group on Planning**
- March 10 to 14 (Geneva) — Berne Union and Universal Copyright Convention — Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright (convened jointly with Unesco)**
- March 17 to 21 (Geneva) — Nice Union — Preparatory Working Group**
- March 17 to 28 (Geneva) — International Patent Cooperation (PCT) Union — PCT Budget Consultants Meeting**
- April 28 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property**
- June 9 to 13 (Paris) — Development Cooperation — Committee of Experts for a Model Statute for Authors' Societies for Developing Countries (convened jointly with Unesco)**
- June 9 to 16 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)**
- June 13 to 19 (Geneva) — Budapest Union (Microorganism) — Interim Committee (or Assembly)**
- June 23 to 27 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information**

- September 8 to 12 (Rijswijk) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning
- September 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assembly of the International Patent Cooperation (PCT) Union)
- October 14 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries
- October 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI)
- November 17 to 21 (Geneva) — 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)
- December 15 to 19 (Paris) — Berne Union and Universal Copyright Convention — Committee of Governmental Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)

## UPOV Meetings

### 1980

- March 18 and 19 (Geneva) — Technical Committee
- April 14 and 15 (Geneva) — Subgroups of the Administrative and Legal Committee
- April 16 (Geneva) — Consultative Committee
- April 17 and 18 (Geneva) — Administrative and Legal Committee
- April 27 to May 11 (Nelspruit) — Technical Working Party for Fruit Crops
- May 12 to 14 (Wageningen) — Technical Working Party for Agricultural Crops
- June 23 to 25 (Geneva) — Subgroups of the Administrative and Legal Committee
- August 26 to 28 (Hanover) — Technical Working Party for Forest Trees
- September 16 to 18 (Lund) — Technical Working Party for Ornamental Plants
- September 23 to 25 (Lund) — Technical Working Party for Vegetables
- October 14 (Geneva) — Consultative Committee
- October 15 to 17 (Geneva) — Council
- November 10 to 12 (Geneva) — Technical Committee
- November 13 and 14 (Geneva) — Administrative and Legal Committee

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

### Non-Governmental Organizations

#### 1980

- International Confederation of Societies of Authors and Composers (CISAC)**  
 Legal and Legislation Committee — March 20 and 21 (Budapest)  
 Congress — November 3 to 7 (Dakar)
- International Federation of Library Associations and Institutions (IFLA)**  
 Congress — August 18 to 23 (Manila)
- International Federation of Musicians (FIM)**  
 Executive Committee — February 25 to 28 (Vienna)  
 Congress — May 5 to 9 (Geneva)
- International Literary and Artistic Association (ALAI)**  
 Study Session — May 26 to 28 (Helsinki)
- International Publishers Association (IPA)**  
 Congress — May 18 to 22 (Stockholm)

#### 1981

- Internationale Gesellschaft für Urheberrecht (INTERGU)**  
 Congress — September 21 to 25 (Ottawa)