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# Copyright

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World Intellectual Property Organization (WIPO)

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## World Intellectual Property Organization

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

#### Fifteenth Series of Meetings

(Geneva, September 24 to 28, 1984)

#### NOTE\*

The Governing Bodies of WIPO and the Unions administered by WIPO held their fifteenth series of meetings in Geneva from September 24 to 28, 1984. The following six Governing Bodies held sessions:

WIPO Coordination Committee, eighteenth session (15<sup>th</sup> ordinary);

Paris Union Assembly, ninth session (3<sup>rd</sup> extraordinary);

Paris Union Conference of Representatives, eleventh session (5<sup>th</sup> extraordinary);

Paris Union Executive Committee, twentieth session (20<sup>th</sup> ordinary);

Berne Union Executive Committee, twenty-third session (15<sup>th</sup> ordinary);

PCT (Patent Cooperation Treaty) Union Assembly, twelfth session (8<sup>th</sup> extraordinary).

Delegations of 77 States participated in the meetings. Eleven intergovernmental organizations and four international non-governmental organizations were represented by observers. The list of participants, including the list of officers, follows this note.

**Accounts and Activities.** The Governing Bodies reviewed and noted with approval reports by the Director General on the financial accounts for 1982 and 1983 and on the activities of WIPO from September 1983 to September 1984. All the delegations that intervened in the discussion expressed satisfaction with the accomplishments of the International

Bureau since the 1983 sessions of the Governing Bodies. Several of those delegations also noted that the activities had been carried out in accordance with the approved program, that the activities — particularly those related to development cooperation — had increased in comparison with those of the preceding period and that all activities had been carried out in a highly competent manner, fully meeting the concerns for the efficient management and rational use of resources. In the course of their interventions, a number of delegations described the development cooperation activities undertaken by the International Bureau in their respective countries or to which their governments had contributed financial support and other assistance. Several of those delegations stated that in carrying out those development activities, WIPO was a model of inter-governmental cooperation for development which made it stand out among the specialized agencies of the United Nations system. The delegations of developing countries expressed their thanks to the International Bureau for the development cooperation activities that had been carried out for the benefit of their countries, and they conveyed their appreciation to the governments of those States and institutions that had contributed to the execution of those activities by providing training, sending consultants and furnishing documentation. A number of delegations referred to the session of the WIPO Permanent Committee for Development Cooperation Related to Industrial Property which was held in the week preceding the meetings of the Governing Bodies and, in endorsing the conclusions of that body, pointed to the valuable suggestions made by that Committee for the program of future work in the field of development cooperation. Several delegations expressed satisfaction with the plans concerning the celebration of the centenary of the Berne

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\* Prepared by the International Bureau.

Union in 1986 and thanked the Government of Switzerland for its generous offer of hosting the celebration in the *Palais fédéral* in Berne. Several delegations expressed the wish that WIPO should, by specific program activities, make a concrete contribution to international cooperation for the promotion of peace, referring to relevant resolutions of the General Assembly of the United Nations.

**Director General.** The WIPO Coordination Committee decided, upon the proposal of the Delegation of the United States of America, to nominate, unanimously and by acclamation, Dr. Arpad Bogsch for reappointment by the WIPO General Assembly at its session in 1985 for a six-year term as Director General of WIPO. A great number of delegations of States and the representatives of several international organizations conveyed their congratulations to Dr. Arpad Bogsch on his nomination. The Director General expressed his profound appreciation to all the Delegations for their unanimous decision. In his speech, he made the following statement as to the future tasks of WIPO:

*“First of all, WIPO will have to further increase its usefulness for the developing countries. Intellectual property should contribute directly to the realization of the aims of their governments for improving their economic conditions and thus contribute to their self-reliance and competitiveness. This is an objective which is uncontested and crystal clear. The International Bureau will continue to try to be imaginative, dynamic and prompt to respond equally to the wishes of the developing countries in every region of the world.*

*“Second, WIPO will have to increase its work on the solution of the protection of intellectual property in new fields, both in copyright and industrial property. I mean computer programs, copyright and design piracy, biotechnology, satellite broadcast, cable television, etc. If WIPO does not act fast enough, those matters will escape from the domain of intellectual property and the whole system will diminish in importance. We should not allow that to happen.*

*“Thirdly, I am convinced that with over 160 independent countries in the world, the securing of protection on the international level must be simplified and made more economical. Otherwise, the patenting of inventions, and the registration of trademarks, in foreign countries, will fall into desuetude. This is why the Patent Cooperation Treaty should be accepted by more countries, and this is why a solution, acceptable worldwide, should be found for the international registration of marks.”*

**Revision of the Paris Convention.** The Diplomatic Conference on the Revision of the Paris Convention, at the conclusion, in March 1984, of its fourth session, had recommended to the Paris Union Assembly that it reconvene the Diplomatic Conference as soon as it finds prospects for positive results; the countries participating in the Diplomatic Conference asked the Paris Union Assembly to consider the setting up of a machinery for consultation designed to prepare, on substance, the next session. The Paris Union Assembly decided that the said machinery would consist of consultative meetings of up to 10 representatives of States, including the spokesman, for each Group of countries; China would be invited to participate in such meetings as soon as it becomes a member of the Paris Union; the three spokesmen would, by consensus, agree on the dates, duration, agenda, chairmanship and documentation of the consultative meetings, and any distribution of documents; the International Bureau would provide the secretariat of the meetings; it would also provide interpretation not only for those meetings but also for any meeting of any Regional Group; the Director General of WIPO would report on any consultative meeting to each ordinary session of the Assembly of the Paris Union and to each extraordinary session of that Assembly convened for the purpose of considering matters relating to the Diplomatic Conference; the competence of the Assembly of the Paris Union, and the competence of the Diplomatic Conference, would not be affected by any conclusions of the consultative meetings; a preparatory meeting between the three spokesmen would take place at the headquarters of WIPO on December 20, 1984; the first consultative meeting would take place within the first six months of 1985.

**International Registration of Marks.** The Paris Union Assembly agreed that a Committee of Experts be convened to discuss ideas suggested by the International Association for the Protection of Industrial Property (AIPPI) concerning possible links between the Madrid Agreement Concerning the International Registration of Marks and the Proposed Regulation of the European Community on the Community Trade Mark, and suggestions for certain provisions in a new variant of the Madrid Agreement.

**Preparation of the Draft Agendas of the 1985 Ordinary Sessions of the Governing Bodies.** The Governing Bodies approved items for the draft agendas of the 1985 sessions of the WIPO General Assembly and Conference and the Paris Union and Berne Union Assemblies.

**PCT Matters.** The PCT Union Assembly fixed new amounts, with effect from January 1, 1985, of the fees specified in the Schedule of Fees annexed to the PCT Regulations. It is to be noted that a maximum amount of the designation fee, corresponding to the amount due for 10 designations for which the fee is due, is provided for. It also approved an amendment to the Agreement between the International Bureau of WIPO and the European Patent Organisation, with a view to the European Patent Office acting, once the United States of America has withdrawn its reservation excluding the application of Chapter II of the PCT, as an International Pre-

liminary Examining Authority for international applications filed with the United States Patent and Trademark Office. Finally, the PCT Union Assembly agreed that an international application which is received by telecopier by a receiving Office is to be accorded an international filing date, and that any formal defect, such as the lack of signature or of fitness for reproduction, may be subsequently corrected without affecting the international filing date. It was understood, however, that no receiving Office would be obliged to make telecopier facilities available to applicants.

## LIST OF PARTICIPANTS\*\*

### I. States

- Algeria**<sup>1, 2, 4</sup>: D. Hadj-Sadok; H. Touati.  
**Argentina**<sup>1, 2, 4</sup>: R. Villambrosa; J. Pereira.  
**Australia**<sup>1, 2, 5, 6</sup>: P.A. Smith.  
**Austria**<sup>1, 2, 4, 6</sup>: O. Leberl; E. Kubesch.  
**Belgium**<sup>2, 6</sup>: J.M. Poswick; P. Ceuninck.  
**Bolivia**: I. Paz Claros.  
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**Bulgaria**<sup>1, 2, 5</sup>: I. Markova; A. Angelov; R. Atanassova Kazandiyewa; G. Sarakinov.  
**Byelorussian SSR**: V. Grekov.  
**Cameroon**<sup>2, 6</sup>: W. Eyambe.  
**Canada**<sup>1, 2, 5</sup>: R. Gagnon; D.S. McCracken; P.A. Van Brakel; R. Hornby.  
**Chile**<sup>1, 5</sup>: J. Bustos; F. Pérez.  
**China**<sup>1</sup>: Tang Zhongshun; Deng Shaoxi; Ma Yaoyang.  
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**Congo**<sup>1, 2, 4, 6</sup>: E. Kouloufoua; S. Bayalama.  
**Costa Rica**<sup>1, 5</sup>: E. Soley Soler; J. Rhenan Segura.  
**Cuba**<sup>2</sup>: M. Jiménez Aday.  
**Czechoslovakia**<sup>1, 2, 5</sup>: M. Bélohávek; J. Prošek.  
**Denmark**<sup>2, 6</sup>: L. Østerborg.  
**Egypt**<sup>1, 2, 4</sup>: S. Alfarargi; I. Salem; M. Daghash; A.G. Fouad.  
**Finland**<sup>2, 6</sup>: T. Kivi-Koskinen; E. Wuori; K.M. Ilander.  
**France**<sup>1, 2, 5, 6</sup>: J.-C. Combaldieu; M. Hiance; A. Chapard; L. Nicodème; J.-M. Momal.  
**Gabon**<sup>2, 6</sup>: P.-M. Dong.  
**German Democratic Republic**<sup>1, 2, 4</sup>: J. Hemmerling; D. Schack; K.-D. Peters; M. Förster.  
**Germany (Federal Republic of)**<sup>1, 2, 4, 6</sup>: A. Krieger; I. Koch; J. Schade; C. Wunderlich; B. Bockmair.  
**Ghana**<sup>2</sup>: A.J.B. McCarthy.  
**Greece**<sup>2</sup>: A. Cambitsis; A. Souloyanni.  
**Holy See**<sup>2</sup>: O. Rouillet; A. Marelle.  
**Honduras**: J.M. Maldonado Muñoz; A. Ariza; G. Bu.  
**Hungary**<sup>1, 2, 5, 6</sup>: G. Pusztai; M. Ficsor.  
**India**<sup>1, 5</sup>: M.M. Singh.  
**Indonesia**<sup>2</sup>: I. Darsa; S. Sutowardoyo; N. Wisnoemoerti; R. Tanzil; M. Jalaluddin; A. Tobing.  
**Ireland**<sup>2</sup>: M. Kennedy; B. O'Gorman.  
**Italy**<sup>1, 2, 5</sup>: G.L. Milesi-Ferretti; G. Aversa; R. Boros.  
**Ivory Coast**<sup>1, 2, 4</sup>: F.K. Ekra.  
**Jamaica**: K.G.A. Hill; P. Robotham.  
**Japan**<sup>1, 2, 4, 6</sup>: M. Shiga; H. Sasaki; S. Ono; K. Sakamoto; K. Shimizu.  
**Kenya**<sup>2</sup>: J.N. King'Arui.  
**Lebanon**<sup>1, 3, 4</sup>: I. Kharma; H. Dimachkie.  
**Libya**<sup>2</sup>: G. Ferjani.  
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**Luxembourg**<sup>2, 6</sup>: F. Schlessler.  
**Madagascar**<sup>2, 6</sup>: P. Verdoux. J. Velontrasina.  
**Malaysia**: W.A. Sepwan.  
**Mexico**<sup>1, 2, 5</sup>: R. Beltrán Guerrero; F.J. Cruz González; N. Pizarro Macias.  
**Monaco**<sup>2, 6</sup>: J. Brunschvig; E. Lindenfeld.  
**Mongolia**<sup>1</sup>: S.-O. Bold.  
**Morocco**<sup>1, 2, 5</sup>: A. Kandil; M. Halfaoui.

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

<sup>1</sup> WIPO Coordination Committee.

<sup>2</sup> Paris Union Assembly.

<sup>3</sup> Paris Union Conference of Representatives.

<sup>4</sup> Paris Union Executive Committee.

<sup>5</sup> Berne Union Executive Committee.

<sup>6</sup> PCT [Patent Cooperation Treaty] Union Assembly.

**Netherlands**<sup>1, 2, 4, 6</sup>: J.J. Bos; J.H. Van Kreveld.  
**New Zealand**<sup>3</sup>: B.T. Lineham.  
**Norway**<sup>1, 2, 4, 6</sup>: A. Gerhardsen; J. Smith.  
**Pakistan**: M. Ahmad; R. Mahdi; K. Niaz.  
**Panama**: J.A. Medrano Valderrama; I. Aizpurúa Pérez.  
**Peru**: R. Villarán Koechlin; C. Castillo; S. Vegas de Otero.  
**Poland**<sup>1, 2, 4</sup>: J. Szomański; D. Januszkiewicz; J. Hajduk.  
**Portugal**<sup>1, 2, 4</sup>: F. Reino; J. Mota Maia; A.M. Pereira;  
 R. Morais Serrão; A. Mendonça e Moura.  
**Republic of Korea**<sup>2</sup>: S.-J. Hong; J.-U. Chae; T.-C. Choi.  
**Romania**<sup>2, 6</sup>: P. Gavrilesco; P. Baloiu.  
**Senegal**<sup>1, 2, 5, 6</sup>: A. Sène; S.C. Konate.  
**Somalia**: M.H. Abby.  
**Soviet Union**<sup>1, 2, 4, 6</sup>: I.S. Nayashkov; V.F. Zubarev;  
 V.E. Troussov; P.E. Dapkounas.  
**Spain**<sup>2</sup>: L. Padiar Martin; A. Casado Cervino; G. Porras;  
 M. Pérez del Arco.  
**Sudan**<sup>1</sup>: Y. Ismail; S.Y.A. Mahmoud; Y. Abdelgalil Mah-  
 moud.  
**Sri Lanka**<sup>2, 6</sup>: J. Dhanapala; S. Palihakkara.  
**Sweden**<sup>2, 6</sup>: G. Borggård; I. Schalin; A.-K. Wegmann.  
**Switzerland**<sup>1, 2, 4, 5, 6</sup>: P. Braendli; R. Grossenbacher;  
 R. Dürler; A.-M. Buess; W. Frei.  
**Syria**<sup>3</sup>: A. Daoudy; A. Saker; M. Sayadi; F. Salim.  
**Thailand**: P. Chindasilpa; C. Chutharatkul; T. Petchsuwan;  
 K. Kittisataporn; K. Phutragool.  
**Trinidad and Tobago**<sup>1, 3, 4</sup>: H. Robertson.  
**Tunisia**<sup>1, 2, 5</sup>: T. Ben Slama; M. Blanco; H. Boufares.  
**Turkey**<sup>1, 2, 5</sup>: H. Gögüs; E. Suphan.  
**United Kingdom**<sup>1, 2, 5, 6</sup>: I.J.G. Davis; V. Tarnofsky;  
 A. Sugden; J. Richards.  
**United Republic of Tanzania**<sup>1, 2, 4</sup>: E.E.E. Mtango.  
**United States of America**<sup>1, 2, 4, 6</sup>: G.J. Mossinghoff;  
 M.K. Kirk; H.J. Winter; L. Schroeder; G. Dempsey.  
**Uruguay**<sup>1, 2, 4</sup>: C. Fernandez Ballesteros.  
**Viet Nam**<sup>1, 2, 4</sup>: Nguyen Thuong; Vu Huy Tan.  
**Yugoslavia**<sup>1, 2, 4</sup>: G. Fejic.

## II. Intergovernmental Organizations

**United Nations (UN): United Nations Development Programme (UNDP)**: E. Bonev. **United Nations Educational, Scientific and Cultural Organization (UNESCO)**: A. Amri. **General Agreement on Tariffs and Trade (GATT)**: A.T. Otten. **African Intellectual Property Organization (OAPI)**: G. Meyo-M'Emane. **Benelux Trademark Office (BBM)**: P. Rome. **Benelux Designs Office (BBDM)**: P. Rome. **Commission of the European Communities (CEC)**: M.B. Schwab. **Council for Mutual Economic Assistance (CMEA)**: I.V. Cherviakov. **European Patent Office (EPO)**: J.B. Van Ben-  
 them; P.G.M. Zwartkruis; G. Kolle. **Interim Committee for the Community Patent**: H.W. Kunhardt. **League of Arab States**: M. El May; M. Oreibi; Z. Tlili.

## III. Non-Governmental Organizations

**European Association of Industries of Branded Products (AIM)**: G.F. Kunze. **International Chamber of Commerce (ICC)**: J.M.W. Buraas. **International Federation of Industrial Property Attorneys (FICPI)**: K. Raffnsøe. **International Federation of Pharmaceutical Manufacturers Associations (IFPMA)**: D.T. Rossiter.

## IV. Officers

### WIPO Coordination Committee

*Chairman*: C. Fernandez Ballesteros (Uruguay). *Vice-Chairmen*: I. Markova (Bulgaria); J. Mota Maia (Portugal).

### Paris Union Assembly

*Chairman*: J.C. Combaldieu (France). *Vice-Chairmen*: I. Nayashkov (Soviet Union); C. Fernandez Ballesteros (Uruguay).

### Paris Union Conference of Representatives

*Chairman*: H. Robertson (Trinidad and Tobago). *Vice-Chairman*: E. Mtango (Tanzania).

### Paris Union Executive Committee

*Chairman*: M. Daghash (Egypt). *Vice-Chairmen*: J. Hemmerling (German Democratic Republic); M. Shiga (Japan).

### Berne Union Executive Committee

*Chairman*: P.A. Smith (Australia). *Vice-Chairmen*: M. Bělohávek (Czechoslovakia); T. Ben Slama (Tunisia).

### PCT [Patent Cooperation Treaty] Union Assembly

*Chairman*: I. Marinescu (Romania). *Vice-Chairman*: G. Borggård (Sweden).

## V. International Bureau of WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); M. Porzio (*Deputy Director General*); L.E. Kostikov (*Deputy Director General*); C. Masouyé (*Director, Public Information and Copyright Department*); S. Alikhan (*Director, Developing Countries Division (Copyright)*); L. Baeumer (*Director, Industrial Property Division*); G. Boytha (*Director, Copyright Law Division*); P. Claus (*Director, Patent Information and Classification Division*); F. Curchod (*Director, PCT Division (Patent Cooperation Treaty)*); R. Harben (*Director, Public Information Division*); L. Kadirgamar (*Director, Development Cooperation and External Relations Bureau for Asia and the Pacific*); T.A.J. Keefer (*Director, Administrative Division*); G. Ledakis (*Legal Counsel*); E. Pareja (*Director, Development Cooperation and External Relations Bureau for Latin America and the Caribbean*); I. Thiam (*Director, Development Cooperation and External Relations Bureau for Africa and Western Asia*); B. Davoudi (*Head, Building and Common Services Section*); I. Pike-Wanigasekara (*Senior Assistant, Office of the Director General*); H. Rossier (*Head, Mail and Documents Section*).

## Notifications

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

#### CZECHOSLOVAKIA

##### Accession

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms\* that, according to the notification received from the Secretary-General of the United Nations, the

Government of the Czechoslovak Socialist Republic deposited, on October 5, 1984, its instrument of accession to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to the Czechoslovak Socialist Republic, three months after the date of the notification given by the Director General of WIPO, that is on January 15, 1985.

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\* Phonograms Notification No. 43, of October 15, 1984.

## National Legislation

#### BENIN

### Law on the Protection of Copyright

(No. 84-008, of March 15, 1984)\*

#### CHAPTER I

##### Subject and Scope of Copyright

*Article 1.* The author of any original work of the mind, whether it be literary, artistic or scientific, shall enjoy in that work, by the mere fact of its creation, an exclusive, incorporeal property right which shall be enforceable against all persons.

*Article 2.* The existence or conclusion of a contract for hire by the author of a work of the mind

shall in no way derogate from the enjoyment of the right afforded by Article 1.

*Article 3.* Copyright shall comprise attributes of an intellectual and moral nature and also attributes of an economic nature.

##### A. Moral Rights

The moral rights shall comprise the author's right:

- to defend his work,
- to decide to disclose or not to disclose his work,
- to modify his work,
- to respect for his name, his authorship and his work.

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\* Adopted by the National Revolutionary Assembly (*Assemblée Nationale Révolutionnaire*) on February 17, 1984, and promulgated by the President of the Republic on March 15, 1984. — WIPO translation.

Entry into force : March 15, 1984.

The name of the author shall be stated, in conformity with usual practice, on each copy of the work and each time the work is made available to the public.

No modification may be made to the work without the author's consent given in writing. No one may make the work available to the public in a form or under circumstances prejudicial to the honor or reputation of the author.

The rights afforded to the author under the preceding paragraphs shall be perpetual, inalienable and imprescriptible.

### B. Economic Rights

The author shall enjoy the exclusive right to exploit his work in any form whatsoever and to obtain monetary profit therefrom.

He shall have the exclusive right, in particular, to carry out or have carried out any of the following acts:

(1) reproduce the work in any material form whatsoever, including cinematographic films and sound recordings, by any process enabling it to be communicated to the public in an indirect manner;

(2) perform or recite the work in public by any means or process whatsoever, including sound or television broadcasting;

(3) communicate the broadcast work to the public by wire, loudspeaker or any other process or means for transmitting sounds or images;

(4) make a translation, adaptation, arrangement or any transformation whatsoever of the work.

For the purposes of this Article, work shall mean both the work in its original form and in any form derived from the original.

None of these acts may be carried out by another person without the formal authorization or the authorization in writing of the author. Any reproduction or performance, whether in part or in whole, made without the consent of the author, his successors in title or cessionaries shall be unlawful.

The same shall apply to translation, adaptation, arrangement and transformation.

## CHAPTER II

### Authors and Protected Works

#### A. Authors of Works

*Article 4.* (1) The author of a work shall be the person who has created that work. A work shall be

deemed to have been created, irrespective of public disclosure, by the mere fact of the author having conceived it or realized it, even incompletely.

Authorship shall vest, unless proved otherwise, to the person or persons under whose name the work is disclosed.

(2) Subject to the provisions of Article 26 below, copyright, even in a work produced under a contract for hire, shall belong *ab origine* to the author.

However,

- (a) where the work has been produced by staff of the Administration, within the framework of their functions, the pecuniary rights deriving from disclosure of the work may be distributed in accordance with the special regulations of the Administration employing them;
- (b) the pecuniary rights deriving from disclosure of the works of students or trainees at a school or artistic establishment may be distributed in accordance with the special regulations of that school or establishment.

*Article 5.* "Original work" shall mean a work whose characteristic elements and whose form, or whose form alone, enable its author to be distinguished.

"Derived work" shall mean a work based on preexisting elements.

"Work of collaboration" shall mean a work whose creation results from the contributions of two or more authors, irrespectively of the work constituting an indivisible whole or being composed of parts having an autonomous creative nature.

"Composite work" shall mean a new work in which a preexisting work is incorporated without the collaboration of the author of that latter work.

"Collective work" shall mean a work created on the initiative of a natural or legal person who discloses it under his direction and name, and in which the personal contributions of the various authors who participated in its production are merged in the overall work for which they were conceived, without it being possible to attribute to each author a separate right in the work as created.

"Posthumous work" shall mean a work made available to the public after the death of the author.

*Article 6.* The authors of pseudonymous and anonymous works shall enjoy therein the rights afforded by Article 3.

They shall be represented in the exercise of those rights by the original publisher or editor, until such time as they declare their identity and prove their authorship.

The declaration referred to in the preceding paragraph may be made by will: however, any rights that may have been previously acquired by other persons shall be maintained.

The second and third paragraphs above shall not apply where the pseudonym adopted by the author leaves no doubt as to his identity.

*Article 7.* The authors of translations, adaptations, transformations or arrangements of works of the mind shall enjoy the protection established by this Law, without prejudice to the rights of the author of the original work as defined in Article 3 of this Law.

The same shall apply to authors of anthologies or collections of different works which, by reason of the choice or arrangement of the material, constitute intellectual creations.

### B. Protected Works

*Article 8.* The following shall be deemed works of the mind within the meaning of this Law, whereby this list shall not be exhaustive:

- (1) books, pamphlets and other literary, scientific or artistic writings;
- (2) lectures, addresses, sermons, pleadings and other works of such nature;
- (3) works created for the stage or for broadcasting (sound or visual), including both dramatic and dramatico-musical and choreographic and dumb-show works, the acting form of which is set down in writing or in other manner;
- (4) musical compositions with or without words;
- (5) works of painting and drawing, lithographies, etchings or wood engravings and other works of like nature;
- (6) sculptures, bas-reliefs and mosaics of all kinds;
- (7) works of architecture, including both plans and models as well as the construction itself;
- (8) tapestries and objects created by artistic and applied art craftsmen, including both sketches or models as well as the work itself;
- (9) maps, illustrations, drawings and graphical and three-dimensional reproductions of an artistic or scientific nature;
- (10) cinematographic works, to which shall be assimilated for the purposes of this Law, those expressed by a process analogous to cinematography;
- (11) photographic works of an artistic or documentary nature, to which shall be assimilated for the purposes of this Law, those expressed by a process analogous to photography;
- (12) derived works such as translations, arrangements or adaptations of the above-mentioned works;
- (13) folklore and works inspired by folklore, subject to the specific provisions to be set out in a special law on the protection of the national heritage.

*Article 9.* The title of a work shall be protected in the same way as the work itself where it is original in character. The title may not be used, even if the work is no longer protected, to distinguish a work of the same kind if such use is liable to create confusion.

*Article 10.* Folklore shall belong *ab origine* to the national heritage.

For the purposes of this Law:

(1) Folklore shall mean all literary, artistic, religious, scientific, technological and other traditions and productions created by the national communities, passed on from generation to generation and thus constituting the basic elements of the national cultural heritage.

(2) This definition shall cover in particular:

- (a) literary works of all types and of all oral and written categories, tales, legends, proverbs, sagas, chronicles and myths;
- (b) artistic styles and productions:
  - musical works of all kinds;
  - dances;
  - dramatic, dramatico-musical, choreographic and dumb-show productions;
  - styles and works of plastic and decorative art by any process;
  - architectural styles;
- (c) religious traditions and events:
  - rites and rituals;
  - objects, clothing, places of worship;
- (d) educational traditions: initiation, sport, games, codes of good manners and behavior;
- (e) scientific knowledge and works:
  - practices and products of medicine and of pharmacopoeia;
  - acquired theoretical and practical knowledge in the fields of natural science, physics, mathematics and astronomy.
- (f) knowledge and works of technology:
  - metallurgy and textiles;
  - agricultural techniques;
  - hunting and fishing techniques.

A work inspired by folklore shall mean any work composed of elements taken from the traditional Beninese heritage.

The adaptation of folklore or of elements taken from folklore must be declared to the body set up under Chapter III.

The public performance or the direct or indirect fixation of folklore with a view to exploitation for profit shall require prior authorization from the Beninese copyright body against payment of a fee to be fixed in conformity with usual practice in each of the categories of creation concerned.

## CHAPTER III

### The National Copyright Protection Structure

*Article 11.* There shall be set up a public establishment of professional nature with the title: Beninese Copyright Office [*Bureau béninois du droit d'auteur*] (BU.BE.DR.A.).

This Office shall have legal personality and shall be responsible for the management and defense of the rights defined in this Law.

It shall be entitled, to the exclusion of all other natural or legal persons, to act as an agent for the granting of authorizations and for the collection of the appropriate royalties.

The conditions of collection: rates of royalties, distribution of royalties, shall be laid down by decree of the National Executive Council on proposal by the Ministers responsible for culture and for finance.

The organization and operation of the Beninese Copyright Office shall be set out by decree on a proposal by the Minister responsible for culture.

## CHAPTER IV

### Limitations of Copyright

*Article 12.* Where a work has been made lawfully available to the public, the author may not prohibit:

(1) Communications such as performance, sound broadcasting, television:

- (a) if they are private, carried out exclusively within the family circle, and give rise to no form of revenue;
- (b) if they are carried out free of charge for strictly educational or school purposes or during a religious service on the premises reserved for that purpose.

(2) Reproductions, translations and adaptations intended for strictly personal and private use on

condition that the title of the work and the name of its author be mentioned.

(3) Parody, pastiche and caricature, observing the rules of the genre.

*Article 13.* The following shall be lawful on condition that the title of the work and the name of its author be mentioned: analyses and short quotations taken from a work already lawfully made available to the public, on condition they comply with fair practice, to the extent justified by the scientific, critical, polemic, teaching or information purpose, including quotations from newspaper articles and periodicals in the form of press reviews.

Such quotations and analyses may be used in their original version or in translation.

*Article 14.* The following may be reproduced by the press, in sound or television broadcasting or by other means for information purposes, subject to the name of the author and of the source being mentioned and on condition that the right of reproduction has not been expressly reserved:

- articles of a political, economic or socio-cultural nature, published in their original version or in translation;
- speeches intended for the public given at political, judicial, administrative or religious assemblies, in public meetings of a political nature or at official ceremonies.

*Article 15.* The following shall be lawful when reporting on current events by means of photography, cinematography or sound or television broadcasting, to the extent justified by the information purpose: recording, reproduction and public communication of literary, scientific or artistic works that may be seen or heard during such events.

*Article 16.* Reproduction with a view to cinematography, sound or television broadcasting and public communication of works of art and architecture permanently located in a public place or included in a film or broadcast in an accessory manner or that are merely incidental to the main subject, shall be lawful.

*Article 17.* Translation and/or reproduction by public libraries, non-commercial documentation centers, scientific institutions and teaching establishments, of the number of copies required for the needs of their activities, of works of any kind already lawfully made available to the public shall be lawful on condition that such translation and/or reproduction does not impair the normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

*Article 18.* Use of works under the provisions of this Chapter shall not give an entitlement to remuneration to the authors or their successors in title. The provisions of Article 3 above shall remain applicable in all the reserved cases.

## CHAPTER V

### Transfer of Copyright

*Article 19.* Except for the right to modify the work, copyright as defined in Article 3 of this Law shall be transferable by succession.

The moral rights shall be concurrently exercised by the successors and the Beninese Copyright Office (BU.BE.DR.A.).

The right to disclose posthumous works shall be exercised during their lifetime by the executor or executors named by the author. If there are none or after their death, and unless the author has willed otherwise, this right shall be exercised in the following order: by the descendants, by the spouse or spouses against whom there exists no final judgment of divorce or who have not remarried, by the heirs other than descendants, who inherit all or part of the estate, and by the general legatees or donees of the totality of the future estate.

This right may be exercised even after the exclusive right of exploitation laid down in Article 40 has expired.

In the event of manifest abuse of the exercise or non-exercise of the right of disclosure by the deceased author's representatives referred to in the second paragraph of this Article, the civil court may order any appropriate measures. The same shall apply if there is a conflict between the aforesaid representatives, if there is no known successor in title, no heir or no spouse entitled to inheritance.

Legal proceedings may be instituted by the Minister responsible for culture.

The economic rights of an author without heirs shall fall to the Beninese Copyright Office (BU.BE.DR.A.) and the proceeds of royalties therefrom shall be devoted to cultural and social purposes for the benefit of Beninese authors, without prejudice to the rights of creditors and the implementation of any assignment contracts concluded by the author or his successors in title.

*Article 20.* Assignment, in whole or in part, of any one of the rights listed in Article 3 of this Law shall not imply assignment of any other of those rights.

Where a contract requires total assignment of one of the rights, its scope shall be limited to the use laid down in the contract.

The assignment in whole of future works shall be null and void.

*Article 21.* The transfer of ownership of the sole copy or of one or more copies of a work shall not imply transfer of the copyright in the work.

Unless otherwise provided, authorization to broadcast a work shall cover all free communications made by the *Office de radiodiffusion et télévision du Bénin* by its own means and under its own responsibility.

This authorization shall not extend to any transmissions by wire or by wireless means made by other persons, nor to communication of broadcasts made in public places such as cafés, restaurants, hotel rooms, cabarets, shops and various so-called "private" clubs, for which prior authorization must be obtained in accordance with Article 3 of this Law. In the event of manifest abuse on the part of the owner preventing exercise of the right of disclosure, the civil court may take any appropriate measure in accordance with Article 19 of this Law.

*Article 22.* Any assignment clause giving the right to exploit the work in a form that is not foreseeable or not foreseen at the date of the contract must be expressly worded and must lay down correlative participation in the exploitation profits.

*Article 23.* Notwithstanding any assignment of the original work, authors of graphic and three-dimensional works shall have an inalienable right of participation in the profit from any sale of the work made at public auctions or through a dealer.

Following the death of the author, such *droit de suite* shall subsist in favor of his heirs during the term of protection laid down in Article 44 of this Law.

This right shall be constituted by a five percent levy on the proceeds of sale payable to the author or his heirs.

*Article 24.* The conclusion of contracts to commission three-dimensional or graphical works, comprising a period of exclusivity not exceeding five (5) years and respecting the independence and freedom of expression of the author, shall be lawful.

*Article 25.* The rights of performance, reproduction, adaptation and translation shall be assignable against payment or free of charge. The author may assign his rights in his work in whole or in part. Assignment must comprise a proportional participation for the author in the revenue deriving from sale or exploitation.

However, the author's remuneration may constitute a lump sum in the following cases:

- (1) the basis for calculating participation cannot be determined in practice;
- (2) the cost of surveillance would be out of proportion with the results to be achieved;
- (3) the use made of the work has but an accessory nature in relation to the exploited subject matter.

Notwithstanding assignment of his exploitation right, the author shall enjoy, even after publication of his work, a right of retraction or withdrawal in respect of the assignee.

This right may only be exercised, however, if the author makes prior compensation to the assignee for the prejudice occasioned to him by such retraction or withdrawal.

Where, subsequent to exercising his right of retraction or withdrawal, the author decides to have his work published, he shall be required to give first priority in the rights of exploitation to the assignee that he had originally chosen.

## CHAPTER VI

### Cinematographic and Broadcast Works

*Article 26.* A cinematographic work shall be the property of the natural or legal person who takes the initiative for making the work and the financial responsibility for exploiting it.

The author's rights shall vest in that person, known as the producer.

The producer shall be required, before undertaking production of the cinematographic work, to conclude contracts with all those persons whose works are used in making the film.

These contracts, except for those concluded with the authors of musical compositions with or without words, shall comprise, except where otherwise stipulated, assignment to the producer of the exclusive right of cinematographic exploitation; they shall be in writing.

*Article 27.* Before undertaking production of the cinematographic work, the producer shall also be required to conclude contracts with the intellectual creators of the cinematographic work, in particular:

- (1) the author of the screenplay,
- (2) the author of the adaptation,
- (3) the author of the musical compositions, with or without words, specially made for the work.
- (4) the director,
- (5) the author of the spoken text.

Unless otherwise stipulated, these contracts shall comprise assignment to the producer of the right of cinematographic exploitation; they shall be in writing.

*Article 28.* The natural person who assumes the direction of a cinematographic work and the artistic responsibility for its transformation into pictures and sounds, for the cutting and final editing, shall be deemed to be the director of the cinematographic work.

A cinematographic work shall be deemed to have been completed once the first master print has been established by common accord between the director and the producer.

*Article 29.* If one of the intellectual creators of the cinematographic work refuses to complete his contribution to that work, or is unable to complete it due to circumstances beyond his control, he shall not be entitled to object to the use of the part of his contribution already in existence for the purpose of completing the work.

Unless otherwise agreed, the intellectual creators of a cinematographic work may dispose freely of their personal contribution with a view to their exploitation in a different field, provided that this does not prejudice the exploitation of the work to which they have contributed.

*Article 30.* The natural and legal persons who perform the intellectual creation of a sound radio or television work shall be deemed the authors of such work. The provisions of Articles 26 to 29 of this Law shall apply to sound radio and television works.

## CHAPTER VII

### Authors' Contracts

*Article 31.* Contracts by which the author or his successors in title authorize the performance or publication of his works must be set down in writing on pain of nullity. The same shall apply to performance authorizations given free of charge.

Such contracts shall state the mode of exploitation and the mode of remuneration decided by the author or his successors in title. They shall be subject to the appropriate statutory and regulatory provisions.

Transfer of the author's rights shall be subject to each of the assigned rights being separately mentioned in the instrument of assignment and the field of exploitation of the assigned rights being defined in respect of its scope, purpose, place and duration.

Where special circumstances demand, a contract may be validly concluded by exchange of telegrams on condition that the field of exploitation of the assigned rights be defined in compliance with the third paragraph of this Article.

#### A. Publishing Contracts

*Article 32.* A publishing contract is a contract under which the author of a work or his successors in title assign, under specified conditions, to the publisher the right to manufacture or have manufactured a sufficient number of graphical, mechanical or other copies of the work, on condition that the latter ensures publication and dissemination thereof.

The form and mode of expression, the terms of execution of the publication and the termination clauses shall be specified in the contract.

*Article 33.* The publishing contract must state the minimum number of copies that are to constitute the first printing. However, this requirement shall not apply to contracts providing for a minimum of royalties guaranteed by the publisher.

It must provide for remuneration proportional to the proceeds of exploitation, except in the case of lump sum remuneration in accordance with Article 25 of this Law.

*Article 34.* The publisher may not transmit the benefits of the publishing contract to a third party, for or without payment, or as a contribution to the assets of a partnership, independently of the business, without having first obtained the authorization of the author.

In the event of transfer of the business in such a way as to seriously compromise the material or moral interests of the author, the latter shall be entitled to obtain reparation, even by means of cancellation of the contract.

Where the publishing business has been run as a company or a coparcenary, the allocation of the business to one of the former partners or one of the coparceners, as a consequence of the winding up or division thereof, shall in no case be considered a transfer.

In the case of a fixed-term contract, the assignee's rights shall automatically terminate on expiry of the term without need for formal notice.

However, for three years following such expiry, the publisher may continue to sell at the normal price the copies remaining in stock unless the author prefers to buy those copies at a price to be established, failing amicable agreement, by a valuation, whereby this faculty afforded to the first publisher

shall not prevent the author from having a new edition made within a period of 30 months.

*Article 35.* The publisher shall be required to provide to the author appropriate proof to establish the accuracy of his accounts.

Failing special provisions laid down in the contract, the author may require the publisher to furnish at least once a year a statement showing the number of copies made during the period, specifying the date and the quantity of printings, the number of copies in stock, the number of copies sold by the publisher, the number of copies used for publicity, the number of copies used or destroyed by accident or due to unavoidable circumstances, the amount of royalties owing and, possibly, the amount of royalties already paid to the author.

Any contrary provision shall be deemed null and void.

Neither bankruptcy nor winding up by court decision of the publishing firm shall terminate the contract.

The receiver in bankruptcy may not sell at reduced price or sell out the manufactured copies until at least fifteen (15) days after having advised the author of his intention by registered letter with acknowledgment of receipt.

The author shall have a preemptive right over all or part of the copies. Failing agreement, the price shall be fixed by expert opinion.

*Article 36.* The publishing contract shall end, independently of the cases set out in general legal provisions or in the preceding Articles, when the publisher carries out the complete destruction of the copies.

Termination shall take place as of right when, upon formal notice by the author fixing a suitable period, the publisher has not effected publication of the work or, should the work be out of print, its republication.

An edition shall be deemed out of print if two orders for the delivery of copies addressed to the publisher have not been met within three months.

If, in the event of the author's death, the work is incomplete, the contract shall be rescinded as regards the unfinished part of the work, except where otherwise agreed between the publisher and the author's successors in title.

*Article 37.* The author shall present to the publisher, within the period of time laid down in the contract, the work that is to be published in a form enabling it to be fabricated. Unless otherwise agreed or for unavoidable technical reasons, the work to be published furnished by the author remains the latter's property. The author shall be responsible for it

during a period of one year after completion of fabrication.

*Article 38.* Contracts referred to as “at the author’s expense” shall not constitute publishing contracts within the meaning of Article 32.

Under such contracts, the author or his successors in title pay to the publisher an agreed remuneration against which the latter manufactures a sufficient number of copies of the work in the form and according to the modes of expression specified in the contract and ensures its publication and dissemination.

Such contracts constitute contracts of undertaking governed by the agreement, customary practice and the statutory and regulatory provisions in force.

*Article 39.* Contracts referred to as “at joint expense” shall not constitute publishing contracts within the meaning of Article 32.

Under such contracts, the author or his successors in title commission a publisher to manufacture at his expense a sufficient number of copies of the work in the form and according to the modes of expression specified in the contract and to ensure their publication and dissemination in accordance with the agreement reciprocally contracted to share the profits and losses of exploitation in the agreed proportion.

Such contracts shall constitute joint undertakings.

### *B. Performance Contracts*

*Article 40.* A performance contract is a contract under which the author of a work of the mind or his successors in title authorize a natural or legal person to perform that work under conditions laid down therein.

A “general performance contract” is a contract under which the Beninese Copyright Office grants to an entertainment promoter the right to perform, for the duration of the contract, the existing or future works constituting the repertoire of that Office under the conditions laid down by the author or his successors in title. In the case referred to in the preceding paragraph, the provisions of Article 20 may be waived.

*Article 41.* A performance contract shall be concluded for a limited term and for a given number of communications to the public.

Except where exclusive rights are expressly stipulated, it shall not afford any exploitation monopoly to the entertainment promoter.

The entertainment promoter may not transfer the benefits of his contract without the written consent of the author or his representative.

The term of the exclusive rights afforded by a playwright may not exceed five years; the interruption of performances for two consecutive years shall automatically terminate those rights.

*Article 42.* “Entertainment promoter” shall mean any natural or legal person who, on occasion or in a regular fashion, performs or causes to be performed in an establishment to which the public is admitted, and by any means whatsoever, works protected by this Law.

The entertainment promoter shall be required:

- (1) to obtain prior authorization from the Beninese Copyright Office;
- (2) to inform the author or his representatives of the exact program of public performances;
- (3) to supply to them a documented statement of receipts;
- (4) to pay to them the amount of the stipulated royalties;
- (5) to ensure that the public performance takes place under technical conditions such as to guarantee the intellectual and moral rights of the author.

## CHAPTER VIII

### Duration of Protection

*Article 43.* (1) Copyright shall last for the whole lifetime of the author and for fifty calendar years after the end of the year of his death, with the exception of:

- cinematographic, sound radio and audiovisual works for which the duration of protection expires fifty years after the work has been made available to the public with the consent of its author or, if such event has not taken place within fifty years of such work having been made, it shall expire fifty years after such making;
- photographic works and works of applied art for which the duration of protection shall expire twenty-five years after the work has been made.

(2) In the case of a work of joint authorship, only the death of the last surviving joint author shall be taken into account when calculating the duration.

*Article 44.* Copyright shall expire at the end of a period of fifty years as from the end of the year in

which the work has been lawfully made available to the public:

(1) where the copyright belongs *ab origine* to a natural person, with the exception of the State's right in folklore, which is imprescriptible;

(2) in the case of anonymous or pseudonymous works, for as long as the author of the work remains unknown;

(3) in the case of posthumous works.

*Article 45.* A general lien on debtors property shall be attached to the author's economic rights. The lien shall survive bankruptcy and legal winding up. It shall be exercised immediately after that guaranteeing the salaries of servants.

## CHAPTER IX

### Domaine Public Payant

*Article 46.* On expiry of the terms of protection laid down in Articles 43 and 44, during which an exclusive and acknowledged right belongs to the authors, their heirs and to their successors in title, the author's work shall fall into the public domain.

Performance of works in the public domain shall be subject to:

- respect of the moral rights;
- prior declaration;
- payment of a fee whose proceeds shall be paid to the Beninese Copyright Office (BU.BE.DR.A.) and devoted to cultural and social purposes of benefit to authors.

The right to perform works in the public domain shall be administered by the Beninese Copyright Office (BU.BE.DR.A.). The rate of the royalty will be fixed by the Minister responsible for culture and may not exceed 50% of the rate charged for copyright during the term of protection.

## CHAPTER X

### Procedures and Sanctions

*Article 47.* The Beninese Copyright Office shall be empowered to take legal action to defend the moral and economic rights of the authors for which it has responsibility. It shall be required to appear in court when direct proceedings are instituted by the owners of the rights.

The duly constituted professional associations of authors shall be empowered to act only to defend the collective interests of their members.

*Article 48.* Any person exploiting a work of folklore or the right of performance of a work that has fallen within the public domain who omits to make prior declaration to the Beninese Copyright Office (BU.BE.DR.A.) shall be liable to a fine amounting to twice the royalties normally payable but to a minimum of 5,000 francs.

*Article 49.* Any publication, reproduction, performance or dissemination by any means whatsoever or any importation and dissemination for commercial purposes on the territory of the People's Republic of Benin of a protected work in violation of the author's rights shall constitute an act of infringement as defined and sanctioned by the penal code.

*Article 50.* At the request of any author of a work protected under this Law, of his successors in title or of the Beninese Copyright Office, the examining judge competent for the infringement or the presiding judge in all cases, including imminent threat of violation of the author's rights shall be empowered to order, against guarantee where appropriate, seizure at any place, and even at times other than those specified in the applicable law, of the copies already manufactured or in the process of manufacture of an unlawfully reproduced work, of the unlawfully used copies and of the revenue deriving from any unlawful reproduction, performance or dissemination of a protected work. He may also order the suspension of any manufacture or public performance, in progress or announced, that constitutes an infringement or an act leading to infringement.

This Article shall apply to cases of irregular exploitation of folklore or of the right of performance of a work that has fallen within the public domain.

*Article 51.* Where the proceeds of exploitation due to the author of a work of the mind have been subject to a seizure, the presiding judge shall order payment to the author, as an allowance, of a sum or of a given share of the sums seized.

*Article 52.* The measures ordered by the examining judge under Article 51 shall be automatically lifted in the event of a nonsuit or a *nolle prosequi*.

They may be lifted at any time by the examining judge or by the criminal jurisdiction, subject where appropriate to guarantee or to the appointment of an administrator as receiver with the task of resuming manufacture or public performance and holding the proceeds of exploitation of the work on behalf of the person to whom it rightfully belongs.

Measures ordered by the presiding judge shall be automatically lifted on the thirtieth day following the decision if the plaintiff fails to refer the matter to the competent civil court, unless criminal proceed-

ings are pending; they may be lifted at any time by the presiding judge ruling in chambers or by the civil court to which the matter of substance has been referred where appropriate under the conditions set out in the second paragraph of this Article.

*Article 53.* Physical proof of infringement of the regulations concerning the protection of copyright may be furnished either by the reports of police officers or constables or the reports of sworn agents of the Beninese Copyright Office (BU.BE.DR.A.).

*Article 54.* In the event of an infringement of Article 23, the acquirer and the ministerial officials may be jointly ordered to pay damages to the owners of the *droit de suite*.

## CHAPTER XI

### Field of Application of the Law

*Article 55.* The provisions of this Law shall apply to ongoing contracts whose execution shall continue up to the date stipulated when the agreement was concluded.

*Article 56.* This Law shall apply:

- (a) to works of Beninese nationals;
- (b) to works of foreign nationals first published in the People's Republic of Benin;

- (c) to works of architecture erected on the territory of the People's Republic of Benin and to any work of art incorporated in a building situated on that territory.

Works that do not fall within one of the above-mentioned categories shall not enjoy the protection afforded by this Law unless the country of which the original owner of copyright is a national or in which he is resident affords equivalent protection to works of Beninese nationals.

However, neither the integrity nor the authorship of those works shall be affected. The royalties shall be paid to the Beninese Copyright Office.

The countries for which the reciprocity required by the second paragraph above is deemed to have been met shall be determined jointly by the Minister Responsible for Literacy and People's Culture and the Minister for Foreign Affairs and Cooperation.

The agreements or conventions signed with foreign countries or organizations shall determine the conditions under which works not falling within one of the above-mentioned categories shall enjoy the same protection as works of Beninese nationals.

*Article 57.* All contrary provisions, particularly Law No. 57-298 of March 11, 1957, on Literary and Artistic Property, shall be repealed.

*Article 58.* This Law shall be implemented as a Law of the State.

## UNITED KINGDOM

**The Copyright (British Indian Ocean Territory) Order 1984**

(No. 541, of April 11, 1984)

1. This Order may be cited as the Copyright (British Indian Ocean Territory) Order 1984 and shall come into operation on 14th May 1984.

2. In this Order “the Territory” means the British Indian Ocean Territory.

3. The provisions of the Copyright Act 1956 specified in Part I of the Schedule hereto shall extend to the Territory subject to the modifications specified in Part II of that Schedule.

4. The Copyright (International Organisations) Order 1957<sup>1</sup>, as amended<sup>2</sup> and the Copyright (Broadcasting Organisations) Order 1961<sup>3</sup> (being Orders in Council made under Part V of the said Act) shall extend to the Territory.

## SCHEDULE

## Article 3

## Part I

**Provisions of the Copyright Act 1956  
Extended to the British Indian Ocean Territory**

All the provisions of the Act, as amended by the Performers' Protection Acts 1958 and 1963, the Films Act 1960, the Design Copyright Act 1968, the Statute Law (Repeals) Act 1974, the Criminal Law Act 1977, the Broadcasting Act 1981, the British Nationality (Modification of Enactments) Order 1982, the Copyright Act 1956 (Amendment) Act 1982, the Criminal Justice Act 1982 and the Copyright (Amendment) Act 1983, except sections 23 to 30, 32, 34, 35, 42 and 44 and Schedules 4 and 5, shall extend to the Territory.

## Part II

**Modifications of the Provisions Extended**

*General Modifications*

1. In sections 7, 8(11) and 15(4), for references to the Board of Trade there shall be substituted references to the Commissioner.

<sup>1</sup> See *Le Droit d'auteur*, 1958, pp. 180 and 181.

<sup>2</sup> *Ibid.*, 1959, pp. 57 and 58.

<sup>3</sup> See *Copyright*, 1962, p. 45.

2. In sections 8(1) and 8(10), 10(2) and (3), 12(6), 21(1) and 21(6), 22(2) and 22(3), 31(4), 43, 48(4) and 49(2) and paragraph 46 of Schedule 7, for “the United Kingdom” there shall be substituted “the Territory”.

*Particular Modifications*

3. The provisions mentioned in the first column in the following table shall be modified in the manner specified in the second column.

Provision	Modification
<i>Section 8</i>	In subsections (2) and (4) for “three farthings” there shall be substituted “one penny” and in subsection (2), for “farthing” there shall be substituted “penny”.  For subsection (3) there shall be substituted the following:  “(3) If at any time by an order made under this section in its operation in the law of the United Kingdom any different rate of, or minimum amount of, royalty is prescribed either generally or in relation to any one or more classes of records, the provisions of this section shall be construed subject to the provisions of any such order as is for the time being in force.”  In subsection (4)(a), all the words after the first reference to works shall be omitted.
<i>Section 10</i>	For subsection (5) there shall be substituted the following:  “(5) For the purpose of this section a design shall be taken as being applied industrially if it is applied in the circumstances for the time being prescribed by rules made under this section and section 36 of the Registered Designs Act 1949 as extended by this section in the law of the United Kingdom.”
<i>Section 13</i>	For subsection (3) there shall be substituted the following:  “(3) Copyright subsisting in a cinematograph film by virtue of this section shall continue to subsist until the film is published and thereafter until the end of the period of fifty years from the end of the calendar year which includes the date of its first publication and shall then expire, or if copyright subsists in the film by virtue only of the last preceding subsection, it shall continue to subsist as from the date of first publication until the end of the period of fifty years from the end of the calendar year which includes that date and shall then expire.”  In subsection (8), for “any such film as is mentioned in paragraph (a) of subsection (1) of section 38 of

Provision	Modification	Provision	Modification
	the Films Act 1960 (which relates to newsreels)" there shall be substituted "any film consisting wholly or mainly of photographs which, at the time they were taken, were means of communicating news".	<i>Section 33</i>	For subsection (1) there shall be substituted the following: “(1) An organisation to which this section applies is one declared to be such by an Order in Council made under this section as part of the law of the United Kingdom which has been extended, in relation to that organisation, to the Territory.”.
	Subsection (11) shall be omitted.	<i>Section 37</i>	Subsection (4) shall be omitted.
<i>Section 17</i>	Subsection (6) shall be omitted.	<i>Section 39</i>	In subsection (8), for “section three of the Crown Proceedings Act, 1947” there shall be substituted “section 5 of the Crown Proceedings Ordinance, 1984”.
<i>Section 18</i>	In subsection (1), in the proviso, “, or of any corresponding provision which may be enacted by the Parliament of Northern Ireland” shall be omitted. Subsection (4) shall be omitted.	<i>Section 40</i>	Subsection (3) shall be omitted. In subsection (4), for “either of the two last preceding subsections” there shall be substituted “the last preceding subsection”, and “or the programme to be transmitted, as the case may be” shall be omitted. In subsection (5), the reference to a work shall be omitted.
<i>Section 21</i>	In subsections (7C) and (7D), all the words after “Criminal Justice Act 1982” shall be omitted. Subsection (10) shall be omitted.	<i>Section 41</i>	Subsection (7) shall be omitted.
<i>Section 22</i>	In subsection (1), for the “Commissioners of Customs and Excise (in this section referred to as “the Commissioners”)” there shall be substituted “the Commissioner” and, subject to the modifications to subsection (4) hereinafter provided, for subsequent references to the said Commissioners there shall be substituted references to the Commissioner. In subsection (4), for “the Commissioners” where those words first occur there shall be substituted “the Commissioner” and for “the Commissioners consider” there shall be substituted “the Commissioner considers”. In subsection (5), for “the Commissioners” shall be substituted “the Commissioner”. Subsection (6) shall be omitted. For subsection (7) there shall be substituted the following: “(7) Where by virtue of this section the importation into the Territory of any copy of a work to which the section applies is prohibited, the importation into the Territory of such a copy shall, for the purposes only of provisions as to the forfeiture of goods in any law relating to imports be deemed to be a contravention of that law.”.	<i>Section 46</i>	Subsection (1) shall be omitted. In subsection (2), “(including any enactment of the Parliament of Northern Ireland)” shall be omitted.
<i>Section 31</i>	Subsections (1) and (2) shall be omitted. In subsection (4), for “in a country” there shall be substituted “in the United Kingdom or in any country other than the Territory”.	<i>Section 47</i>	The whole section except subsection (4) shall be omitted. In subsection (4), “or rules” shall be omitted.
		<i>Section 51</i>	For subsection (2) there shall be substituted the following: “(2)—(a) Any provision of this Act empowering the Commissioner to make regulations shall come into operation on the commencement of the Order in Council extending that provision to the Territory. (b) All the other provisions of this Act shall come into operation on 14th September 1984.”. Subsection (3) shall be omitted.
		<i>Seventh Schedule</i>	Paragraphs 25, 26, 40 and 41 shall be omitted.

## EXPLANATORY NOTE

*(This Note is not part of the Order)*

This Order extends the provisions of the Copyright Act 1956 with certain exceptions and modifications to form part of the law of the British Indian Ocean Territory.

The Order also extends two Orders in Council made under Part V of that Act. The extension of these Orders will give protection in the Territory to works produced by certain international organisa-

tions and to lawfully authorised broadcasts originating in other Commonwealth countries to which the 1956 Act has already been extended. Broadcasts by organisations in the Territory will also have protection in the Territory and in those countries by virtue of this Order.

The copyright protection given by the law of the Territory will be similar to that given by the law of the United Kingdom.

**General Studies**

**The Brazilian Indian and Copyright**

Hildebrando PONTES NETO\*























## Correspondence

### Letter from the Federal Republic of Germany

#### The Development of Copyright Between 1979 and the Beginning of 1984

Adolf DIETZ\*

*(First Part)*













































## Calendar of Meetings

### WIPO Meetings

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

#### 1984

- November 26 to December 7 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- December 10 to 14 (Paris) — Group of Experts on the Intellectual Property Aspects of the Protection of Folklore at the International Level (convened jointly with Unesco)
- December 17 (Geneva) — Informal Meeting with International Non-Governmental Organizations Essentially Concerned with Industrial Property or Copyright and Neighboring Rights

#### 1985

- January 21 to 25 (Geneva) — International Patent Classification (IPC) Union: Committee of Experts
- February 4 to 8 (Geneva) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights
- February 25 to March 1 (Geneva) — Group of Experts on Copyright Protection of Computer Software (convened jointly with Unesco)
- March 11 to 15 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- March 18 to 22 (Paris) — Group of Experts on Copyright Problems in the Field of Direct Broadcasting Satellites (convened jointly with Unesco)
- April 22 to 26 (Paris) — Joint Unesco-WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)
- May 6 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- June 6 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Planning and on Special Questions
- June 17 to 25 (Paris) — Berne Union: Executive Committee (Extraordinary Session) (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- June 26 to 28 (Paris) — Rome Convention: Intergovernmental Committee (Ordinary Session) (convened jointly with ILO and Unesco)
- September 11 to 13 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries
- September 16 to 20 (Geneva) — Permanent Committee on Patent Information (PCPI)
- September 23 to October 1 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union)
- October 7 to 11 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- November 18 to 22 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning
- November 25 to December 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

## UPOV Meetings

### 1985

March 27 and 28 (Geneva) — Administrative and Legal Committee

March 29 (Geneva) — Consultative Committee

May 8 to 10 (Wageningen) — Technical Working Party on Automation and Computer Programs

June 4 to 7 (Hanover) — Technical Working Party for Agricultural Crops, and Subgroup

June 18 to 21 (Aarslev) — Technical Working Party for Fruit Crops, and Subgroup

June 24 to 27 (Aars and Aarslev) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroups

July 8 to 12 (Cambridge) — Technical Working Party for Vegetables, and Subgroup

October 14 (Geneva) — Consultative Committee

October 15 and 16 (Geneva) — Meeting with International Organizations

October 17 and 18 (Geneva) — Council

November 12 and 13 (Geneva) — Technical Committee

November 14 and 15 (Geneva) — Administrative and Legal Committee

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

### Non-Governmental Organizations

### 1985

#### European Broadcasting Union (EBU)

Legal Committee — April 24 to 26 (Geneva)

#### International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)

Annual Meeting — September 16 to 18 (Geneva)

#### International Copyright Society (INTERGU)

Congress — June 7 to 12 (Munich)

#### International Literary and Artistic Association (ALAI)

Executive Committee — January 12 (Paris)

Study Session — April 10 to 12 (Oxford)

#### International Union of Architects (IUA)

Congress — January 20 to 26 (Cairo)