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World Intellectual Property Organization

The World Intellectual Property Organization in 1985*

Copyright and Neighboring Rights Activities

Information Concerning Copyright

Objective

The objective is to increase and spread knowledge about the doctrine, legislation and practical administration of copyright and neighboring rights.

Activities

The periodicals *Copyright* and *Le Droit d'auteur* continued to be published each month.

WIPO continued to keep up to date its *collection of the texts of the laws and regulations of all the 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. The basic texts were published in the monthly periodicals *Copyright* and *Le Droit d'auteur.*

Copyright Questions of Topical Interest

Objective

The objective is to look for solutions to specific questions of a legal nature, and of topical interest, in the fields of copyright and neighboring rights. These questions are of topical interest because they are raised by relatively recent changes in the social, economic or technological environment in which mankind lives.

Activities

Expressions of Folklore. Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions were published jointly by WIPO and Unesco in April 1985 and sent to all member States and interested organizations.

A *Group of Experts on the Copyright Aspects of the Protection of Computer Software*, convened by WIPO and Unesco, met in Geneva in February and March 1985. The experts, invited in their personal capacity, were nationals of the following nine countries: Argentina, Brazil, China, Germany (Federal Republic of), Hungary, India, Japan, Soviet Union, United States of America. Delegations from the following 39 States attended the meeting: Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Luxembourg, Netherlands, Nigeria, Norway, Paraguay, Peru, Republic of Korea, Soviet Union, Spain, Sweden, Switzerland, Thailand, Tunisia, United Kingdom, United States of America. Observers from six intergovernmental organizations (United Nations (UN), International Labour Organisation (ILO), Arab League Educational, Cultural and Scientific Organization (ALECSO), Commission of the European Communities (CEC), Council of the European Communities (CEC), Intergovernmental Bureau for Informatics (IBI)) and 26 non-governmental organizations (Association of Data Processing Service Organizations (ADAPSO), Committee of National Institutes of Patent Agents (CNIPA), Computer and Business Equipment Manufacturers Association (CBEMA), Computer Law Association (CLA), Council of European Industry Federations (CEIF), European Computer Manufacturers Association (ECMA), European Computing Services Association (ECSA), European Federation of Agents of Industry in Industrial Property (FEMIPI), Information Industry Association (IIA), Inter-American Copyright Insti-

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* This article is the second part of a report on the main activities of WIPO in general and in the fields of copyright and neighboring rights. Activities in the field of industrial property are covered in a corresponding report in the review *Industrial Property.*

The first part dealt with the activities of WIPO as such and with development cooperation activities in the fields of copyright and neighboring rights (see *Copyright*, 1986, pp. 108 *et seq.*). The second part deals with other activities in those fields.

tute (IIDA), International Association for the Protection of Industrial Property (IAPIP), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Chamber of Commerce (ICC), International Confederation of Free Trade Unions (ICFTU), International Confederation of Societies of Authors and Composers (CISAC), International Copyright Society (INTERGU), International Federation of Film Producers Associations (FIAPF), International Federation of Industrial Property Attorneys (FICPI), International Federation of Phonogram and Videogram Producers (IFPI), International Group of Scientific, Technical and Medical Publishers (STM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), Latin–American Federation of Performers (LAFP), Pacific Industrial Property Association (PIPA), Union of European Practitioners in Industrial Property (UEPIP), Union of Industries of the European Community (UNICE)) also participated.

The meeting was opened by the Director General of WIPO and a representative of the Director–General of Unesco.

Discussions were based on a document containing a survey and analysis of national legislation and case law, and on statements by several participants concerning developments in legislation or case law concerning the protection of computer programs under the copyright law of their respective countries since the preparation of the said document.

The discussions reflected a general recognition of the pressing need for adequate protection of computer programs both nationally and internationally. Some participants stressed that such a protection should encourage the creation of modern technology as well as the international trade of computer programs and should be based on an internationally harmonized approach. Some participants referred to the increase of piracy also in the field of data processing.

The participants considered the difference between the protection of computer programs in general on the one hand, and of integrated circuits (semiconductor or microchips), on the other. There was a general agreement that questions of the protection of microchips should be dealt with separately. The participants noted that the Director General of WIPO intended to convene a meeting on the subject in October 1985.

Several participants expressed the view that the international copyright conventions protected computer programs and required no amendment to that effect. Other delegations expressed their doubts as to the applicability, with their present content, of those conventions.

A great number of participants stated that computer programs were works protected by copyright provided that they were original productions, constituting individual, creative expression of the set of instructions developed in them; they stated that computer programs may be assimilated to literary works. Delegations from countries where computer programs were protected by copyright said that, in general, copyright provided an effective means of protection. Several delegations said that in their countries the possibility of adopting *sui generis* protection was under consideration.

Some participants raised doubts as regards the applicability of copyright to computer programs. Some said that copyright protection would upset the delicate balance of creators' and users' interests as generally provided for under industrial property laws. Others said that the problem was a political issue, where questions of users' and consumers' protection were involved, and that issue could not be decided at the technical level. Some participants said that copyright protection did not leave room enough for the regulation of the international circulation (export–import) of computer programs; that computer programs were of a nature other than the traditional kinds of authors' works; that various types of law other than copyright (e.g., trade secrets, contracts, unfair competition, etc.) should apply in combination and should all be considered in developing a *sui generis* system of protection, possibly providing also for registration. Some participants considered the term of copyright protection too long and proposed that any computer program in demand should become freely accessible before it ceased to have commercial value. Some participants were of the view that object codes were not suitable for copyright protection since they were not intended for human perception and that it was difficult to state which phase of creating a program called for copyright protection; a program was of dual nature, calling for industrial property protection as to its contents, and for copyright protection as to its source code. They also referred to difficulties resulting from the unclear coverage of copyright protection as regards various uses of the program and had doubts about its efficacy. In their view, the recognition of copyright protection of computer programs would erode the system of protecting traditional forms of authors' works.

Some participants said that the protection of the moral rights of the author was important and perfectly applicable in the case of computer programs. Others said that it was difficult in practice. Some participants emphasized that the problem was similar to that of the protection of the moral rights of employee authors in general. Several participants suggested further study of the question.

The participants unanimously adopted a report which summarized the discussions that had taken place.

A Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite, convened by WIPO and Unesco, met in Paris in March 1985. The experts, invited in their personal capacity, were nationals of the following five countries: Barbados, China, India, Senegal, United Kingdom. The States party to the international treaties concerning intellectual property were invited to follow the discussions of the Group of Experts. Delegations from the following 43 States attended the meeting: Algeria, Australia, Austria, Bangladesh, Belgium, Brazil, Cameroon, Canada, Congo, Côte d'Ivoire, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic of), Ghana, Greece, Haiti, Holy See, Hungary, Indonesia, Iraq, Israel, Jordan, Kenya, Mongolia, Netherlands, Niger, Nigeria, Norway, Poland, Portugal, Rwanda, Saudi Arabia, Senegal, Soviet Union, Sweden, Togo, Tunisia, Turkey, United Kingdom, United States of America, Yugoslavia. Observers from three intergovernmental organizations (ILO, European Economic Community (EEC), ALECSO) and 18 international non-governmental organizations (ALAI, BIEM, CISAC, European Broadcasting Union (EBU), FIAPF, ICC, IFPI, INTERGU, International Alliance for Diffusion hy Wire (AID), International Association of Art (AIAP), International Association of Broadcasters (AIR), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Journalists (IFJ), International Federation of Musicians (FIM), International Federation of Translators (FIT), International Secretariat of Arts, Media and Entertainment Trade Unions (ISETU), IPA) also attended the meeting.

The meeting was opened by the Director General of WIPO and a representative of the Director-General of Unesco. During a discussion on general questions, the Director General of WIPO advanced the following tentative views on certain of those questions, based on the Berne Convention as it is today:

(i) Broadcasting through direct broadcasting satellites is broadcasting in the sense of Article 11^{bis} of the Berne Convention.

(ii) According to that Article, broadcasting is a means of communication to the public by wireless diffusion (namely by radio waves). The said Article uses the concepts "communication to the public" and "diffusion" and does not use the concept "emission" a concept that is narrower than "communication to the public" and "diffusion." Consequently, broadcasting takes place where the wireless diffusion takes place as a communication to the public. Where communication to the puhlic by means of radio waves is effected through a direct broadcasting satellite, the communication takes place in all countries which are covered by the "footprint" of the satellite.

(iii) Under the Berne Convention, which provides for national treatment, the national law of each country covered by the "footprint" of the satellite is applicable. The national laws may grant an exclusive right (Article $11^{bis}(1)$), or may provide for what may be called a non-voluntary license (Article $11^{bis}(2)$). Any broadcasting through direct hroadcasting satellite, when the "footprint" covers more than one country, must, therefore, comply with the copyright laws of each of the countries covered by such hroadcasting. Otherwise, a communication to the public in one country would be governed by the national law of another country, a result contrary to the principle of national treatment.

(iv) Where the "footprint" covers only a part of a country, one might consider, according to the "de minimis" principle, that the national copyright law of that country need not be taken into account.

(v) Compliance with the applicable national copyright laws is the responsibility of the person or organization that gives the order for the broadcasting through direct broadcasting satellite. No other entity has any responsibility. In particular, no person who receives the broadcast in any country has any responsihility, in particular needs no authorization from, and needs not pay anything to, the owner of the copyright in the hroadcast work, for such reception.

A great number of participants said that broadcasting via direct broadcasting satellites amounted to broadcasting also from the point of view of copyright. Many participants found that, as a consequence, direct satellite broadcasting needed no special consideration, and the use of direct broadcasting satellites merely increased the effect of the original emissions. A number of other participants, however, emphasized that the quantum jump as regards the extent of the area covered hy satellite hroadcasting resulted in a new quality of broadcasting. Whereas in the case of traditional broadcasting the coverage of territories neighboring to the country of the emission could be generally considered as a mere "overspill," broadcasting via satellite fre-

quently covered the territory of several countries, totally or to a considerable extent, even where the emission was effected from a country having a large territory. Moreover, broadcasting via satellite could not be compared with sound broadcasting by short waves over large distances, owning to technical differences, differences in attainable quality of reception, and relative economic considerations. These factual differences called for a corresponding legal treatment. Aspects which could be neglected in the case of traditional broadcasting had to be considered in the case of direct broadcasting satellites.

Some participants referred to the possibility of developing technical means of narrowing the actual coverage area of a direct broadcasting satellite and limiting it to the area allotted, under the International Telecommunication Convention, to the country under the law of which the satellite operated. Other participants maintained, however, that the feasibility of such technical solutions had yet to be proven and that the difference in the coverage areas of traditional and satellite broadcasting would in any case remain so significant that special copyright considerations seemed unavoidable.

Some participants asked the question whether direct broadcasting by satellite could not be regarded under the Berne Convention as a *sui generis* communication to the public governed by Articles 11 and 11ter, or, in the case of cinematographic productions, as distribution under Articles 14 and 14bis, and noted that those four Articles did not allow — as did Article 11bis(2) — for the determination, by national legislation, of the conditions of the exercise of copyright in the work communicated to the public. It was found, however, that communication to the public by means of radio waves came under the provisions of the special rules contained in Article 11bis concerning broadcasting.

The participants agreed that it was always the broadcaster originating the direct broadcasting by satellite (determining its program and giving the order for its distribution) who was responsible vis-à-vis the owners of the copyrights concerned.

After a full discussion covering, in particular, questions of applicable law and non-voluntary licensing, the participants agreed that direct broadcasting of works by means of a satellite (broadcasting satellite service) was broadcasting in the sense of both the Berne and Universal Copyright Conventions. The participants suggested that various aspects of the application of those Conventions when broadcasting is effected through direct broadcasting satellites should be further studied by the Secretariats, in particular as regards the following questions: (i) the law of which country or countries was applicable in the case of direct broadcasting by satellites covering several countries; (ii) the applicability of non-voluntary licensing; (iii) the applicability of remedies under criminal law and civil law other than the law on copyright; (iv) differences between, and common characteristics of, fixed-satellite and broadcasting satellite services; (v) links between satellite broadcasting and cable distribution. The participants also suggested extending the study to the field of neighboring rights. The participants noted that the Secretariats would report on the meeting to their respective Copyright Committees.

The *Executive Committee of the Berne Union* (hereinafter referred to as the "Executive Committee") held its 24th (9th extraordinary) session in Paris in June 1985. Sixteen of the 19 member States of the Committee were represented: Australia, Benin, Bulgaria, Canada, Costa Rica, Czechoslovakia, France, Hungary, India, Italy, Mexico, Morocco, Senegal, Tunisia, Turkey, United Kingdom. Twenty-one other member States of the Berne Union were represented as observers: Austria, Brazil, Central African Republic, Congo, Denmark, Finland, German Democratic Republic, Germany (Federal Republic of), Guinea, Holy See, Israel, Japan, Netherlands, Norway, Philippines, Portugal, Spain, Sri Lanka, Sweden, Thailand, Uruguay. As the Committee held joint meetings with the Intergovernmental Copyright Committee set up under the Universal Copyright Convention, 16 States not members of the Berne Union also attended as observers: Afghanistan, Algeria, China, Colombia, Ecuador, Ghana, Guatemala, Jordan, Kenya, Nigeria, Oman, Panama, Peru, Saudi Arabia, Soviet Union, United States of America. In addition, four intergovernmental organizations (African Intellectual Property Organization (OAPI), ALECSO, CEC, Council of Europe (CE)) and 17 international non-governmental organizations (AID, ALAI, BIEM, CISAC, EBU, FIAPF, FIT, IAPIP, IFJ, IFPI, INTERGU, International League for Competition Law (LICCD), IPA, ISETU, LAFP, STM, World Blind Union (WBU)) were represented as observers.

The Berne Union will be a hundred years old in 1986. The Centenary will be celebrated in an extraordinary session of the Assembly of the Berne Union in Berne on September 11, 1986. On that occasion, the Assembly will be invited to make a solemn declaration about the contribution that the Berne Convention has made, and is expected to continue to make, to literary and artistic creation and the international dissemination of literary and artistic works. The Executive Committee prepared a draft of the solemn declaration.

The Executive Committee of the Berne Union and the Intergovernmental Copyright Committee of the Universal Copyright Convention (hereinafter referred to as "the Committees"), in joint sessions,

took note of the report of the WIPO–Unesco Group of Experts on the *Copyright Aspects of the Protection of Computer Software* which met in Geneva in February 1985. A number of delegations informed the Committees about new legislative developments and court decisions in their countries on the protection of original computer programs. The Committees asked the WIPO and Unesco Secretariats to follow developments in this field and report to them on the subject in the 1987 joint sessions.

The Committees considered the report of the WIPO and Unesco Secretariats on new developments connected with *the transmission by cable of television programs* and noted the information given by several delegations on new national legislation and draft laws on the copyright and neighboring rights questions connected with such transmissions.

The Committees discussed the analysis prepared by the WIPO and Unesco Secretariats on the observations received from States on the model provisions concerning the *access by handicapped persons to the works protected by copyright* as well as a study presented by the Secretariats on the same subject. Although several delegations expressed the view that there was no need for an international instrument in this field, the Committees decided to keep the question on their agendas and requested the two Secretariats to continue to study the possibility of international regulations.

The Committees considered the report of the WIPO–Unesco Group of Experts on the *International Protection of Expressions of Folklore by Intellectual Property*, which met in Paris in December 1984, and that of the WIPO and Unesco Secretariats on the present status of the work in progress at the regional level. Although the role of intellectual property for the preservation of cultural heritage expressed in works of folklore was generally recognized, any attempt at the international regulation of the protection, by intellectual property rights, was found premature for the time being. The Committees expressed the hope that the studies in this field would continue.

The Committees took note of the report of the Group of Experts on the *Rental of Phonograms and Videograms* which met in Paris in November 1984. A number of delegations emphasized the importance of the question and the urgent need to find solutions to it. The Committees urged the two Secretariats to continue to study the matter.

The Committees decided to postpone the discussion on the study concerning the operation of "*droit de suite*."

The Committees considered the report of the WIPO and Unesco Secretariats on the discussion meeting on the possible contents of *copyright legislation concerning employee authors*, which was held in Geneva in October 1984. It was noted that there would be a meeting jointly convened by WIPO and Unesco, in December 1985, to establish draft model provisions for national laws in this field. The Committees noted the study of the two Secretariats on the present status of the matter of salaried authors.

The Committees discussed a plan of the International Labour Office to convene, under its auspices, a tripartite meeting, in the 1986–87 biennium, on *salaried authors and inventors*. On the basis of the discussion, the Committees requested the Secretariats of WIPO and Unesco to continue their work, in particular, by convening a meeting in December 1985 to prepare model provisions for national legislation.

The Committees took note of the report of the Group of Experts on *the Copyright Aspects of Direct Broadcasting by Satellite* which met in Paris in March 1985. A number of delegations emphasized the importance of the subject and expressed their agreement with the conclusions contained in the report. They proposed that the WIPO and Unesco Secretariats should also study the copyright problems connected with the use of communication (or "fixed service") satellites.

The Committees considered the report of the Group of Experts on *Unauthorized Private Copying of Recordings, Broadcasts and Printed Matter* which met in Geneva in June 1984. They noted the information presented to them, especially the plans of the two Secretariats to continue to study the question.

The Committees noted the report of the Working Group on *Model Provisions for National Laws on Publishing Contracts for Literary Works* which met in Geneva in June 1984. The draft model provisions would be considered by a Group of Governmental Experts to be convened jointly by WIPO and Unesco in December 1985. The Committees approved the plan of the WIPO and Unesco Secretariats to send, after the December 1985 meeting, the model provisions, together with a commentary, to the member States, and decided that this part of the program should be then considered as completed.

The *Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention)* (hereinafter referred to as "the Committee") held its tenth ordinary session in Paris in June 1985. The 12 member States of the Committee were represented: Austria, Brazil, Congo, Czechoslovakia, Denmark, Germany (Federal Republic of), Italy, Mexico, Niger, Norway, Sweden, United Kingdom. Six other States party to the Rome Convention but not members of the Committee were represented: Colombia, Ecuador, Finland, Guatemala, Philippines, Uruguay. In addi-

tion, 19 States not party to the Rome Convention were represented: Algeria, Angola, Australia, Democratic People's Republic of Korea, Egypt, France, Ghana, Greece, Holy See, India, Japan, Lebanon, Netherlands, Senegal, Syria, Thailand, Togo, Tunisia, United States of America. Two intergovernmental organizations (ALECSO, CEC) and six international non-governmental organizations (FIA, FIM, Ibero-American Television Organization (OTI), IFPI, INTERGU, LAFP) were represented by observers.

The Committee took note of the accessions of Peru and the Philippines to the Rome Convention, of Czechoslovakia and Peru to the Phonograms Convention, of Panama and Peru to the Satellites Convention and of the ratification of the latter Convention by the United States of America. These accessions and this ratification took place since the last (1982) session of the Committee.

Several delegations reported on the current situation in their country with regard to the protection of neighboring rights. It was agreed that there was a need to urge States which were not yet party to the Rome Convention to accede to it.

The Committee considered documents submitted by its joint Secretariat, that is, the Secretariats of WIPO, Unesco and ILO, reporting on developments in the fields of legislation, collective and bilateral agreements, and arrangements made by the societies for the collection and distribution of royalties, as far as the protection of performers, producers of phonograms and broadcasting organizations is concerned.

The Committee was informed of the activities of WIPO and Unesco in providing assistance and training relating to the protection of neighboring rights.

The international non-governmental organizations representing performers pointed out that the Rome Convention could not adequately protect their interests and that, in view of technological developments, there were good reasons for envisaging a revision of it. Such organizations also expressed the view that, pending such a revision, it would be desirable to launch immediately an appeal to States to protect artists by the adoption of national legislation where none existed or by improving existing legislation. The Committee supported in general these ideas.

The Committee did not accept a proposal to amend the Rules of Procedure submitted by the International Labour Office. The proposal would have given a similar standing to representatives of governments, employers and workers in the Committee. It nevertheless requested the Secretariat to prepare a recommendation for its next session indicating that, in cases where the Committee had to decide whether international non-governmental organizations should be admitted as observers to subsidiary bodies, special attention should be given to the fact that the beneficiaries of the Rome Convention had an interest in participating in the work of such subsidiary bodies.

As regards the problems arising, with respect to the Rome Convention, through developments in law and practice concerning transmission by cable and by satellite, the Committee recommended that the Secretariat submit to it, at its next session, a study on those problems.

The delegations of the States party to the Rome Convention decided that the following countries will be members of the Committee for the period 1985 to 1989: Austria, Brazil, Congo, Czechoslovakia, Finland, Germany (Federal Republic of), Italy, Mexico, Niger, Norway, Sweden, United Kingdom.

A *Committee of Governmental Experts on Model Provisions for National Laws on Publishing Contracts for Literary Works*, convened by WIPO and Unesco, met in Paris in December 1985. Experts from 41 countries attended the meeting: Argentina, Belgium, Botswana, Chile, Colombia, Costa Rica, France, Gabon, Germany (Federal Republic of), Ghana, Guatemala, Guinea, Holy See, Honduras, Hungary, Italy, Japan, Jordan, Lebanon, Madagascar, Malaysia, Namibia, Netherlands, Niger, Nigeria, Pakistan, Panama, Paraguay, Qatar, Saudi Arabia, Soviet Union, Spain, Sri Lanka, Thailand, Togo, Turkey, Ukrainian SSR, United Kingdom, United States of America, Yemen, Yugoslavia. Brazil and Iraq and eight international non-governmental organizations (ALAI, CISAC, FIT, ICFTU, INTERGU, IPA, ISETU, STM) were represented by observers.

Discussions were based on the draft annotated model provisions for national laws on publishing contracts for literary works in book form, prepared by the two Secretariats, taking into account the deliberations of a working group which met under the auspices of WIPO and Unesco in Geneva in June 1984.

After a general debate, the Committee discussed in detail the draft provisions which covered the following questions: essential elements and form of the contract, grant of rights, warranty, publication of the work, determination of the selling price, moral rights, remuneration of the author, statements and accounts of sales, termination of the contract, succession of rights and obligations, special rules on commissioning the work and option to publish further works of the author.

Work is expected to continue in a further Committee of Experts, probably in 1988.

Cooperation with States and Various Institutions in Matters Concerning Copyright and Neighboring Rights

WIPO continued to cooperate with States, with intergovernmental organizations, and with international and national non–governmental organizations.

States

German Democratic Republic. In August 1985, the Director General, acccompanied by a Deputy Director General, paid an official visit to the German Democratic Republic. They held discussions with high officials of the Government on matters of mutual interest and, in particular, on new possibilities of assistance to developing countries through joint efforts of the Government and the International Bureau of WIPO.

Hungary. In September 1985, the Director General had discussions in Budapest with the President and Vice President of the National Office of Inventions and with the Director General of the Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS).

Sweden. In June 1985, the extension of the WIPO/SIDA Funds–in–Trust Arrangement for WIPO's development cooperation activities for the period 1985–88 was finalized and entered into force on July 1, 1985.

United States of America. In May 1985, the Director General gave testimony and responded to questions, concerning the question of possible accession by the United States of America to the Berne Convention, before the United States Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks in Washington, D.C. The Director General and another WIPO official had discussions with the Chairman and with the Ranking Minority Member of that Senate Subcommittee, the Chairman of the United States House of Representatives Subcommittee on Courts, Civil Liberties and the Administration of Justice, the United States Trade Representative, the Librarian of Congress and other government officials on various matters of common interest to the United States of America and WIPO, including the Berne Convention, the protection of integrated circuits and the problems caused by counterfeit goods.

In May 1985, an honorary degree of Doctor of Laws was conferred on the Director General by the George Washington University in Washington.

Intergovernmental Organizations

Council of Europe (CE). In September 1985, WIPO was represented at a meeting of the Committee of Experts in the Media Fields of the CE in Strasbourg. The Committee discussed legal questions relating to cable television, satellite television and private copying of sound and audiovisual recordings.

Customs Cooperation Council (CCC). In April 1985, a WIPO official participated in a meeting in Brussels of the Permanent Technical Committee of the CCC on the Role of Customs in Implementing Copyright and Industrial Property Law.

Non–Governmental Organizations

The *International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)* held the fifth session of its Assembly and its annual meeting at the headquarters of WIPO in Geneva in September 1985. WIPO provided conference facilities and other financial support for the Assembly and annual meeting, in which 60 professors and researchers from 26 countries participated. WIPO was represented by a member of the staff of the International Bureau who is also a member of ATRIP.

The Assembly of ATRIP noted with approval the reports on the activities and accounts of the Association. In particular, it expressed its satisfaction that 22 professors and researchers had become new members of ATRIP since the previous session of the Assembly, with the result that the membership of the Association, which had been 69 in 1981 when ATRIP was founded, had grown to 243 as of the start of the fifth session (from 43 countries, including 53 members from 19 developing countries).

The Assembly also considered and approved the program of activities and budget for 1986 and, on the basis of proposals made by the Nominations Committee, elected new officers of the Association for a two–year period.

At the annual meeting, discussions were held on two subjects: "Choice of Research Topics in the Field of Intellectual Property" and "Management of University Inventions and Innovations." In addition, three working sessions were held: the first session was devoted to an "Exchange of Experiences and Information in Respect of Recent Legislative or Judicial Developments in Intellectual Property"; the second dealt with the subject of "Piracy—Counterfeit Goods: Implications for Intellectual Property Law and its Development"; the third session was consecrated to the "Consideration of the Third Draft Questionnaire on the Ownership and Exploitation of Academic Results."

In January 1985, WIPO was represented at a meeting of the Executive Committee of the International Literary and Artistic Association (ALAI) in Paris.

In March 1985, the Director General attended a meeting of the *Kuratorium* of the Max Planck Institute for International Patent, Copyright and Competition Law in Munich.

In April 1985, WIPO was represented at a Study Session, the Executive Committee and General Assembly of ALAI in Oxford (United Kingdom).

In April 1985, WIPO was represented at the Annual Meeting of the Legal and Legislation Committee of the International Confederation of Societies of Authors and Composers (CISAC) in Perugia (Italy).

In June 1985, WIPO was represented at the General Assembly of the International Federation of Phonogram and Videogram Producers (IFPI) in Geneva.

In July 1985, a WIPO official participated in a Symposium on the Harmonization of Industrial Property and Copyright Laws in the European Community, organized by the Max Planck Institute for Foreign and International Patent, Copyright and Competition Law at Ringberg Castle (Federal Republic of Germany) on the occasion of the Institute's 30th anniversary.

In September 1985, an information meeting of international non-governmental organizations concerned with questions of copyright and neighboring rights was convened by the Director General in Geneva; current activities were reviewed and suggestions were invited and offered for the future programs of WIPO.

National Legislation

PORTUGAL

Code of Copyright and Related Rights

(No. 45/85, of September 17, 1985)*

(Articles 107 to 217)

SECTION II

Performances

Definition

Article 107. Performance shall mean presentation before an audience of a dramatic, dramatico-musical, choreographic, mime or other similar work, by means of dramatic fiction, singing, dancing, music or other appropriate means, either separately or together.

Authorization

Article 108. (1) Use of a work for performance shall be subject to the author's consent, whether the performance is public or private, whether or not an entrance fee is charged and whether or not the performance is for profit.

(2) Where the work has already been disclosed in any form and issued for non-profit-making purposes in private within a family circle, the performance may take place without the author's consent. This principle also applies to all forms of communication.

(3) Granting of the right to perform shall be deemed to be subject to payment, unless it is given to amateurs.

* Published in the *Diario do Governo* No. 214, of September 17, 1985. — WIPO translation.

This new consolidated text of the Code of Copyright and Related Rights — which contains the amendments introduced by Law-Decree No. 63/85 of March 14, 1985, and Law No. 45/85 of September 17, 1985 — was published as an annex to the latter Law.

Form, content and effects

Article 109. (1) Under a performance contract, the author authorizes an impresario to promote performance of the work and the latter shall do so in accordance with the conditions agreed.

(2) A performance contract shall be drawn up in writing and, unless otherwise agreed, it shall not give the impresario the exclusive right of direct communication of the work by this means.

(3) A performance contract shall define the conditions and limitations under which performance of the work is authorized, in particular, the period of time, the place, the author's remuneration and the form in which it is to be paid.

Remuneration

Article 110. (1) The author's remuneration for granting the right to perform may consist of a fixed lump sum, a percentage of the receipts from performances, a certain sum for each performance, or may be determined in any other form laid down in the contract.

(2) Unless otherwise agreed, where the author's remuneration is determined by the receipts from performances, it shall be paid on the day following that of the respective performances.

(3) Where remuneration is determined by the receipts for each performance, the author or his representative shall have the right to verify the corresponding receipts.

(4) Where the impresario falsifies the statement of receipts or uses other fraudulent methods to hide the true results of his exploitation, he shall be liable to the punishment applicable to such offenses and the author shall have the right to cancel the contract.

Proof of the author's authorization

Article 111. Where performance of a work that does not fall within the public domain requires a license or an administrative authorization, in order to obtain it the competent authority shall be given documentary proof that the author has agreed to its performance.

Unauthorized performance

Article 112. Performance of a work without authorization, or not in accordance with its content, shall give the author the right to have the performance stopped immediately, without prejudice to the criminal or civil liability of the impresario or promoter of the entertainment.

Rights of the author

Article 113. (1) Unless otherwise stipulated, the performance contract shall give the author the right to:

(a) introduce into the work, independently of the other party's consent, the changes he deems necessary, provided that they do not alter its general structure nor detract from its dramatic or theatrical interest, nor prejudice the programming of rehearsals and performances;
(b) be consulted regarding casting;
(c) attend rehearsals and give the necessary indications regarding interpretation and direction;
(d) be consulted regarding the choice of artistic collaborators;
(e) object to performance where he considers that there have not been sufficient rehearsals; however, he may not make undue use of this possibility and unjustifiably delay performance, in which case he shall be liable for damages;
(f) verify the performance himself or through his representative, for which purpose they shall have free access to the premises during the performance.

(2) Where it has been agreed in the contract that performance of the work shall be entrusted to specific actors or performers, their replacement may only take place with the consent of the contracting parties.

Suppression of passages in the work

Article 114. Where a judicial decision compels the suppression of a passage in the work thereby compromising or altering its general theme, the author shall have the right to withdraw the work and to cancel the contract without incurring any liability.

Obligations of the impresario

Article 115. (1) Under the contract, the impresario shall undertake to have the work performed in public within the agreed period, and in the absence of any agreed period, within a period of one year from the date of signature of the contract, except in the case of dramatico–musical works where the period shall be two years.

(2) The impresario shall hold the rehearsals necessary to ensure performance under satisfactory technical conditions and, in general, make every effort customary in such circumstances to ensure the performance's success.

(3) The impresario shall have the work performed according to the text furnished by the author and he may not make any changes such as deletions, substitutions or additions, without the author's consent.

(4) The impresario shall indicate clearly on the programs, posters and other forms of publicity the name, pseudonym or other identifying sign adopted by the author.

Secrecy of unpublished works

Article 116. Where a work has never been performed nor reproduced, the impresario may not make it known before the first performance, except for publicity purposes according to customary usage.

Transmission, reproduction and filming of the performance

Article 117. Performance of the work, in whole or in part, through transmission by audio or visual broadcasting, reproduction on phonograms or videograms, filming or presentation, shall require the author's written consent, in addition to authorization by the show's impresario and its performers.

Transfer of the impresario's rights

Article 118. The impresario may not transfer rights deriving from the performance contract without the author's consent.

Performance of undisclosed works

Article 119. An author who has concluded a performance contract regarding an undisclosed work may publish it, by means of printing or by any other reproduction process, unless otherwise agreed with the impresario.

Cancellation of contracts

Article 120. (1) Performance contracts may be cancelled in the following cases:

(a) cases legally or contractually established;
(b) cases under subparagraphs 1*(a)* and *(d)* of Article 106;
(c) cases where the public obviously and continuously does not attend performances.

(2) Cancellation of the contract shall be without prejudice to liability for damages on the part of the party responsible.

SECTION III

Recitation and Performance

Assimilation to performance

Article 121. (1) Recitation of a literary work and performance by instruments or by instruments together with singers of a musical or dramatico–musical work shall be deemed a performance within the meaning of Article 107.

(2) Where not specified otherwise, a contract for the recitation or performance of such works shall be subject to the provisions of the preceding section, provided that they are compatible with the nature of the work and its presentation.

Obligations of the promoter

Article 122. (1) Any person who promotes or organizes the performance orrecitation of a literary, musical, or dramatico–musical work, before a public audience, must display the corresponding program on the premises in advance, showing as far as possible the designation of the work and identification of the author.

(2) One copy of this program must be furnished to the author or to his representative.

Fraudulent organization or execution of the program

Article 123. (1) Where the person promoting the performance or recitation fraudulently constitutes a program, in particular, by including works that he does not intend to have performed or recited, and by promoting in their place the performance or recitation of unannounced works, or where, during the performance, for reasons that are not fortuitous or due to *force majeure*, the works announced in the program are not performed or recited, the authors whose moral and material interests have been harmed may claim compensation for damages, without prejudice to any criminal liability that might be involved.

(2) Where performers respond to the audience's insistent request by performing or reciting other works in addition to those mentioned in the program, the responsibility of the organizers shall not be involved.

SECTION IV

Cinematographic Works

Production of cinematographic works

Article 124. Cinematographic production shall be dependent upon the authorization of the authors of preexisting works, even though they may not be considered authors of cinematographic works within the meaning of Article 22.

Authorization by authors of cinematographic works

Article 125. (1) Authorizations granted by authors of cinematographic works within the meaning of Article 22, shall specifically mention the condi-

tions governing the film's production, distribution and projection.

(2) Where the author has specifically or implicitly authorized the film's projection, the exercise of the rights of economic exploitation of the cinematographic work shall belong to the producer.

Producer

Article 126. (1) The producer shall be the impresario of the film and as such he shall organize the execution of the cinematographic work, guarantee the necessary means, and assume the corresponding technical and financial responsibilities.

(2) The producer shall be identified as such in the film.

(3) During the period of exploitation, unless the owner or owners of the copyright have otherwise provided for the defense of their rights in the cinematographic work, the producer shall be deemed to be their representative for this purpose and he shall account for the way in which he carries out his mandate.

Effects of authorization

Article 127. (1) Authorization shall give the cinematographic producer the right to produce the negative, the positives, the copies and the tape recordings necessary for presentation of the work.

(2) Unless otherwise provided, authorization for cinematographic production shall imply authorization for the distribution and presentation of the film in cinemas open to the public, as well as for its economic exploitation by this means, without prejudice to payment of the agreed remuneration.

(3) Authorization by the authors of cinematographic works shall be required for the audio or visual broadcasting of the film, the trailer, tapes or records reproducing excerpts from the film, its communication to the public, whether by wire or not, in particular, by hertzian waves, optical fiber, cable or satellite, as well as its reproduction, exploitation or presentation in the form of a videogram.

(4) The authorization referred to in this Article shall not include broadcast transmission of the sound track or of phonograms reproducing excerpts from the cinematographic work.

(5) The author's authorization shall not be required for the diffusion of works produced by sound or audiovisual broadcasting organizations, which retain the right to transmit and communicate to the public, in whole or in part, through their own transmission channels.

Exclusivity

Article 128. (1) Unless otherwise agreed, the authorization given by authors for cinematographic production of a work, whether it has been specially created for this form of expression or has been adapted, shall imply the granting of exclusive rights.

(2) Where no agreement has been reached, the exclusive rights granted for cinematographic production shall lapse 25 years after conclusion of the corresponding contract, without prejudice to the right of the party to whom the economic exploitation of the film has been granted to continue to project, reproduce and distribute it.

Transformations

Article 129. (1) Translations, dubbing, or any other transformations of the cinematographic work shall be subject to the written authorization of the authors.

(2) Authorization to present or distribute a foreign film in Portugal shall implicitly give authorization for its translation or dubbing.

(3) Contrary clauses may be agreed upon, unless the law alone allows the presentation of the translated or dubbed work.

Termination of the work

Article 130. A cinematographic work shall be deemed to be terminated when the director and the producer agree upon its final version.

Remuneration

Article 131. Remuneration due to authors of cinematographic works may consist of a fixed lump sum, a percentage of the receipts derived from the film's projection, a specified sum for each projection, or any other form agreed upon with the producer.

Co-production

Article 132. Unless otherwise agreed, the producer who has concluded the contract with the authors may enter into partnership with another producer in order to ensure the execution and exploitation of the cinematographic work.

Transfer of the producer's rights

Article 133. The producer may also at any time transfer rights deriving from the contract, in whole or in part, to a third party, however, he shall remain responsible towards the author for the strict fulfillment of the contract.

Identification of the work and the author

Article 134. (1) The author or coauthors of cinematographic works shall have the right to require that their names appear in the film, together with an indication of each one's contribution to the work in question.

(2) Where the cinematographic work is an adaptation of a preexisting work, it shall mention the latter's title, as well as the author's name, pseudonym, or other identifying sign.

Separate use and reproduction

Article 135. Authors of the literary and musical parts of a cinematographic work may reproduce and use these parts separately in any way, provided that this does not prejudice the exploitation of the work as a whole.

Time limit for fulfillment of the contract

Article 136. Where the producer fails to terminate production of the cinematographic work within a period of three years from the date of handing over the literary and musical parts, or fails to have the finished film projected within a period of three years from the date of its termination, the author or coauthors shall have the right to cancel the contract.

Prints, matrices and copies

Article 137. (1) Only the producer shall make copies or prints of the cinematographic work as and when they are requested and he shall preserve the corresponding matrix which he may not under any circumstances destroy.

(2) The producer of a cinematographic work shall not have the right to sell the copies produced at reduced prices, even on the grounds that there is no demand for them.

Bankruptcy of the producer

Article 138. Where, following bankruptcy of the producer, all or some of the copies of the cinematographic work are sold at reduced prices, the bankruptcy administrator shall inform the author or coauthors of the fact at least 20 days in advance so that they may take the steps they deem necessary for the defense of their material and moral interests and also so that they may exercise their right of priority to buy the copies auctioned.

Regime applicable

Article 139. The provisions concerning publishing, performance and presentation contracts, amended accordingly, shall apply to cinematographic production contracts.

Works produced by processes analogous to cinematography

Article 140. The provisions of this section shall also apply to works produced by any process analogous to cinematography.

SECTION V

Phonographic and Videographic Fixing

Phonographic and videographic fixing contracts

Article 141. (1) The author's authorization shall be required for fixing a work. Fixing shall mean the separate or combined incorporation of sounds or images in a sufficiently stable and durable material carrier to allow them to be perceived, reproduced or communicated in any way within a non-ephemeral period.

(2) The authorization shall be given in writing and it shall allow the recipient to fix the work and to reproduce and sell the copies produced.

(3) Authorization to perform the fixed work in public, or to broadcast or transmit it in any way, shall also be given in writing, and it may be given to a different entity than that authorized to fix the work.

(4) Purchase of a phonogram or videogram shall not give the purchaser the right to use it for any public execution or transmission, reproduction, resale or rental for commercial purposes.

Identification of the work and the author

Article 142. Phonograms and videograms shall show the title of the work or some means of identifying it, as well as the name or other identifying sign of the author, either directly printed on them or on labels, and provided that the nature of the work so permits.

Verification

Article 143. (1) The author shall have the right to verify establishments printing and duplicating phonograms and videograms and stocking material carriers, the provisions of paragraph (7) of Article 86 and any necessary amendments being applicable.

(2) Persons importing, manufacturing and selling material carriers for phonographic and videographic works shall inform the General Directorate of Entertainment and Copyright of the quantities imported, manufactured and sold. The authors may also verify material carrier stocks and factories.

(3) Persons manufacturing or duplicating phonograms and videograms shall inform the Gen-

eral Directorate of Entertainment and Copyright of the quantities of phonograms and videograms printed or duplicated and they shall produce documentary proof of the author's authorization.

(4) The General Directorate of Entertainment and Copyright shall define the periodicity and form of the communications referred to in paragraphs (2) and (3) above.

Works that have already been fixed

Article 144. (1) Musical works and corresponding texts that have been the subject of commercial phonographic fixing without opposition by the author may be fixed anew.

(2) The author retains the right to equitable remuneration and in the absence of agreement between the parties the Ministry of Culture shall determine the fair amount.

(3) The author may put an end to exploitation if the technical quality of fixing jeopardizes satisfactory communication of the work.

Transfer of the producer's rights

Article 145. Any person with whom a contract for fixing has been concluded may not transfer the rights deriving from the contract of authorization to third parties, in particular, by means of division, without the author's consent, except in the case of dissolution of the establishment.

Transformation

Article 146. Adaptation, arrangement or any other transformation of a work for the purposes of fixing, transmission, performance or presentation by mechanical, phonographic or videographic means, shall also be subject to the author's written authorization which shall mention the purpose or purposes of the transformation.

Regime applicable

Article 147. The provisions concerning publishing contracts, amended accordingly, shall also apply to authorization contracts for phonographic or videographic fixing.

Scope

Article 148. The provisions contained in this section shall apply to the reproduction of intellectual works by any process analogous to phonography or videography, whether it already exists or not.

SECTION VI

Broadcasting and Other Processes for the Reproduction of Signals, Sounds and Images

Authorization

Article 149. (1) Audio or visual broadcasting of a work by any means, whether live or retransmitted, shall be subject to the author's authorization.

(2) Communication of the work in a public place by any means used to diffuse signals, sounds or images, shall also be subject to the author's authorization.

(3) A public place shall mean any place to which the public has access, either implicitly or explicitly, whether against payment or not, even where the right of admission is reserved.

Broadcasting of fixed works

Article 150. Where the work has been fixed for commercial purposes with the author's consent, including specifically the corresponding communication or audio or visual broadcasting, it shall not be necessary to obtain special consent for each communication or broadcast, without prejudice to the moral rights and to the right to equitable remuneration.

Technical requirements

Article 151. Owners of theaters or buildings to be used for broadcasting or communication according to the provisions of Article 149, impresarios and any persons involved in presenting the performance to be transmitted, shall allow the installation of the instruments necessary for the transmission, as well as the tests or technical rehearsals necessary for its successful execution.

Limitations

Article 152. (1) Unless otherwise agreed, the authorization provided for in Article 149 shall not imply authorization to fix the works broadcast.

(2) Broadcasting organizations shall nevertheless be permitted to fix the works to be broadcast, but solely for use by their transmitting stations in the case of retransmission.

(3) Such recordings shall be destroyed within a maximum period of three months during which they may not be broadcast more than three times, without prejudice to the author's remuneration.

(4) The limitations mentioned in the two preceding paragraphs shall be without prejudice to cases in which such recordings are of such exceptional documentary interest that they should be kept

in the official archives or, if these do not exist, in the archives of the Portuguese Radio and Television (RTP, E.P.) and the Portuguese Broadcasting (RDP, E.P.), without prejudice to copyright.

Scope

Article 153. (1) Authorization to broadcast a work shall apply to all live or retransmitted broadcasts carried out by the stations belonging to the entity granted the authorization, without prejudice to the author's remuneration for each transmission.

(2) A broadcast made at some other time, because of programming or technical conditions, by national stations belonging to the same broadcasting channel or the same entity shall not be deemed to be a new transmission.

(3) Broadcasting by cable or satellite by another entity than that granted the authorization referred to in paragraph (1) above and not specifically provided for in the authorization shall be subject to the author's consent and shall give him the right to remuneration.

Identification of the author

Article 154. Broadcasting stations shall indicate the name or pseudonym of the author together with the title of the broadcast work, with the exception of those cases recognized by customary usage in which the circumstances and requirements of the broadcast enable such indications to be omitted.

Public communication of broadcast works

Article 155. The author shall receive remuneration for public communication of a broadcast work by means of loudspeakers or by any other analogous instrument transmitting signals, sounds or images.

Regime applicable

Article 156. The provisions concerning publishing, performance and presentation contracts, amended accordingly, shall apply to broadcasting and to diffusion by any process used to communicate signals, sounds or images.

SECTION VII

Creation of Three–Dimensional, Graphic and Applied Art

Exhibitions

Article 157. (1) The author alone may exhibit or authorize a third party to exhibit publicly his works of art.

(2) Unless otherwise agreed, transfer of ownership of a work of art shall imply transfer of the right to exhibit it.

Responsibility for works exhibited

Article 158. Organizers of exhibitions of works of art shall be responsible for the integrity of the works exhibited and shall safeguard them against fire, theft, and any other risks of destruction or deterioration, and shall keep them in the exhibition site for the duration of the exhibition.

Form and content of reproduction contracts

Article 159. (1) Reproduction of creations of three–dimensional, graphic and applied arts, design, architectural and town planning projects may only be made by the author or by a third party authorized by him.

(2) The authorization referred to in the preceding paragraph shall be given in writing, shall be deemed to be subject to payment, and may be subject to conditions.

(3) The provisions contained in Article 86 shall apply to reproduction contracts and the minimum number of copies to be sold annually shall be specified, failing which the entity exploiting the reproduction may have recourse to the procedures outlined in the said Article.

Identification of works

Article 160. (1) The contract shall contain indications allowing the work to be identified, as well as a brief description of it, a sketch, drawing or photograph, together with the author's signature.

(2) Reproductions may not be offered for sale until the author has approved the copy submitted to him.

(3) All the copies reproduced shall show the name, pseudonym, or other sign allowing the author to be identified.

Architectural and town planning studies and projects

Article 161. (1) Each copy of architectural and town planning studies and projects shall indicate legibly the corresponding author, together with the site of construction of architectural works.

(2) Repetition of an architectural work according to the same plans shall be subject to the author's agreement.

Return of the models or elements used

Article 162. (1) Upon expiry of the contract, the original models and any other elements used as a

basis for reproduction shall be returned to the author.

(2) Unless otherwise agreed, the instruments created specially for the work's reproduction shall be destroyed or shall remain unused unless the author wishes to acquire them.

Scope of protection

Article 163. The provisions contained in this section shall also apply to models of scenery, fashion plates, cartoons for tapestries, advertising posters and designs, book covers and, where applicable, to the graphic creations included therein.

SECTION VIII

Photographic Works

Conditions for protection

Article 164. (1) The choice of a photograph's subject and the conditions of its creation must be deemed to be a personal artistic creation by the author before a photograph may qualify for protection.

(2) The provisions contained in this section shall not apply to photographs of writings, documents, business papers, technical drawings and similar objects.

(3) Photograms of cinematographic films shall be deemed to be photographs.

Rights of the author

Article 165. (1) The author of a photographic work shall have the exclusive right to reproduce, disseminate and sell it, with the restrictions concerning exhibition, reproduction and sale of portraits and without prejudice to copyright in the work reproduced in the case of figurative works of art.

(2) Where a photograph has been made under an employment contract or on commission, the right provided for in this Article shall belong to the employer or to the person giving the commission.

(3) Any person who uses a photographic reproduction for commercial purposes shall pay the author equitable remuneration.

Transfer of negatives

Article 166. Unless otherwise agreed, transfer of the negative of a photographic work shall imply transfer of the rights referred to in the preceding Articles.

Compulsory indications

Article 167. (1) Copies of a photographic work shall bear the following indications:

(a) the name of the photographer;

(b) in the case of photographs of figurative works of art, the name of the author of the work photographed.

(2) Only the unlawful reproduction of photographs bearing the above-mentioned indications may be punished. In the absence of such indications, the author may not claim the compensation provided for in the present Code, unless the photographer can show evidence of bad faith on the part of the person making the reproduction.

Reproduction of commissioned photographs

Article 168. (1) Unless otherwise agreed, when the photograph of a person has been made on commission, it may be published, reproduced or given for reproduction by the person photographed or by his heirs or transferees, without the photographer's consent.

(2) Where the name of the photographer appeared on the original photograph, it shall also appear on the copies.

SECTION IX

Translations and Other Transformations

Authorization by the author

Article 169. (1) Translation, arrangement, instrumentation, dramatization, filming and, in general, any transformation of a work, may only be carried out or authorized by the author of the original work since the latter is protected under the provisions of paragraph (2) of Article 3.

(2) The authorization shall be given in writing and, unless otherwise provided, shall imply granting of exclusive rights.

(3) The person authorized shall respect the theme of the original work.

(4) To the extent necessary for the purposes of the use envisaged, changes that do not distort the work may be made.

Additional compensation

Article 170. Where the publisher, impresario, producer, or other entity uses the translation for purposes additional to the conditions agreed upon or established in the present Code, the translator shall have the right to additional compensation.

Indication of the translator

Article 171. The name of the translator shall appear on copies of the work translated, on theater posters, in communications accompanying radio and television broadcasts, in film credits, and in all other promotion material.

Regime applicable to translations

Article 172. (1) The regulations concerning publishing of original works contained in section I of this chapter shall apply to publication of the corresponding translations, whether the authorization for translation has been granted to the publisher or to the author of the translation.

(2) Unless otherwise agreed, the contract concluded between the publisher and the translator shall not imply temporary or permanent transfer of the translator's rights in his translation.

(3) The publisher may require the translator to make the necessary changes in order to ensure that the original work is respected and, when these imply specific graphic provisions, the text's conformity thereto.

SECTION X

Newspapers and Other Periodical Publications

Protection

Article 173. (1) Copyright in published works, even where they are not signed, in newspapers or periodicals shall belong to the respective owners and they alone may undertake or authorize reproduction separately or in the said publication, unless there is written agreement to the contrary.

(2) Without prejudice to the provisions contained in the previous paragraph, the owner or publisher may reproduce the copies in which the contributions referred to were published.

Journalistic work on behalf of third parties

Article 174. (1) Copyright in journalistic works produced in fulfillment of an employment contract that bear an indication of authorship, whether a signature or some other means, shall belong to the author.

(2) Unless authorized by the company owning the newspaper or publication concerned, the author may not publish the work referred to in the preceding paragraph separately until three months after the date of circulation of the publication in which it appeared.

(3) In the case of works constituting a series, the time limit referred to in the preceding paragraph shall commence on the date of distribution of the issue in which the last work of the series appeared.

(4) Where the said works are not signed or do not contain any identification of the author, copyright therein shall belong to the proprietor of the newspaper or publication in which they appeared and their authors may only publish them separately with his permission.

Staggered and periodic publication

Article 175. (1) Authors or publishers of works appearing in volumes or instalments and authors or publishers of periodic publications may agree with a third party on sale by subscription as and when the work is printed, for a specified time or indefinitely.

(2) The fact that the first volume or instalment sent by the author or publisher is not returned shall not imply tacit conclusion of a contract, nor is the recipient obliged to keep or return it.

(3) Unless otherwise agreed, the dispatch of volumes or papers by post shall be at the risk of the sender and he shall replace the copies lost without right to any additional payment.

TITLE III

Related Rights

Definition

Article 176. (1) The services of performers, producers of phonograms and videograms and broadcasting organizations shall be protected under this Title.

(2) Performers shall mean the actors, singers, musicians, dancers, and others who perform, sing, recite, declaim, interpret or execute literary or artistic works in any manner.

(3) Producers of phonograms or videograms shall mean the individual or collective persons who, for the first time, fix the sounds coming from a performance or other sounds, or images of any origin, whether or not accompanied by sound.

(4) Phonograms shall mean the recording resulting from fixing, on a material carrier, the sounds coming from a performance or other sounds.

(5) Videograms shall mean the recording resulting from fixing, on a material carrier, images, whether or not accompanied by sound, as well as copies of cinematographic or audiovisual works.

(6) Copies shall mean the material carriers on which sounds and or images are separately or jointly reproduced, whether directly or indirectly inter-

cepted from a phonogram or videogram, where the sounds or images fixed therein are totally or partially incorporated.

(7) Reproduction shall mean the making of copies of fixing or of a significant qualitative or quantitative part of the fixing.

(8) Distribution shall mean the activity devoted to offering a significant quantity of phonograms or videograms to the public, whether directly or indirectly, for sale or rental.

(9) Broadcasting organizations shall mean the bodies which effect audio or visual broadcast programs, broadcast programs meaning the diffusion of sounds and or images, separately or jointly, whether by wire or not, in particular, by hertzian waves, optical fiber, cable or satellite, and destined for public reception.

(10) Retransmission shall mean the simultaneous broadcast by one broadcasting organization of a program by another broadcasting organization.

Reservations on copyright

Article 177. The grant of related rights shall in no way affect the protection of authors over the work used.

Right to refusal

Article 178. Performers may refuse:

(a) broadcasting or communication by any means to the public of the performances they have given, without their consent, except when these performances have already been broadcast or fixed;

(b) fixing, without their consent, of performances that have not already been fixed;

(c) reproduction, without their consent, of fixing of their performances when this has not been authorized, when the reproduction is made for purposes different from those for which they had given their consent, or when the first fixing was made under the terms of Article 189 and the corresponding reproduction has objectives different from those provided for in this Article.

Authorization to broadcast

Article 179. (1) In the absence of any agreement to the contrary, authorization to broadcast a performance shall imply authorization to fix it and to broadcast and reproduce subsequently the performance fixed, as well as authorization to broadcast performances lawfully authorized by other broadcasting organizations.

(2) The performer shall, however, have the right to additional remuneration where, although not laid down in the original contract, the following operations are carried out:

(a) a new broadcast;

(b) retransmission by another broadcasting organization;

(c) commercialization of the performance fixed for broadcasting purposes.

(3) Unauthorized retransmission and new broadcasts shall give the performer the right to payment of 20 percent of the remuneration originally fixed.

(4) Commercialization shall give the performer the right to payment of 20 percent of the sum received from the purchaser by the broadcasting organization fixing the performance.

(5) The performer shall have the right to reach agreement with broadcasting organizations on conditions other than those laid down in the preceding paragraphs.

Identification

Article 180. (1) Unless otherwise agreed or unless the nature of the contract makes it unnecessary, any disclosure of the performance shall indicate, even briefly, the name or pseudonym of the performer.

(2) Exclusively musical audio programs without any form of speech and those referred to in Article 154 shall constitute exceptions.

Representation of performers

Article 181. (1) In the absence of any agreement, when several performers participate in the performance, their rights shall be exercised by the director of the company.

(2) Where there is no director of the company, actors shall be represented by the director, the members of the orchestra and chorus by their respective conductors or directors.

Unlawful use

Article 182. Uses which distort a performance, misrepresent its text or prejudice the performer's honor or reputation, shall be unlawful.

Duration

Article 183. Protection of the performer shall last for a period of 40 years from the first day of the year following the occasion which gave rise to protection.

Authorization by the producer

Article 184. (1) The authorization of the producer of the phonogram or videogram shall be required for its reproduction and distribution of the copies to the public, as well as for its export.

(2) Producers of phonograms and videograms shall have the right to verification similar to that granted to authors according to the provisions of paragraphs (1) and (2) of Article 143.

Identification of phonograms and videograms

Article 185. (1) Protection granted to producers of phonograms and videograms shall be subject to the inclusion of the letter Ⓟ (the letter P surrounded by a circle) on all authorized copies and their packaging, accompanied by an indication of the date of the original publication.

(2) Where the copy or its packaging do not permit the producer or his representative to be identified, the mention referred to in the preceding paragraph shall also include this indication.

Duration

Article 186. The producer's protection shall last for a period of 25 years from the first day of the year following the date of fixing.

Rights of the broadcasting organization

Article 187. Broadcasting organizations shall have the right to authorize or refuse:

(a) retransmission of their programs;
(b) fixing on a material carrier of their programs;
(c) reproduction of the fixing of their programs, where this has not been authorized or in the case of ephemeral fixing, and reproduction for purposes different from those originally envisaged.

Duration

Article 188. Protection of broadcast programs shall last for a period of 20 years from the first day of the year following the occasion which gave rise to protection.

Unrestricted use

Article 189. (1) Protection granted under this Title shall not include:

(a) private use;
(b) excerpts from a performance, a phonogram, a videogram, or a broadcast program, provided that the use of such excerpts is justified for reasons of information or criticism, or other reasons authorized for quotations or summaries referred to in subparagraph *(f)* of Article 75;
(c) use for exclusively scientific or educational purposes;
(d) ephemeral fixing by the broadcasting organization;
(e) fixing or reproduction by public bodies or agents of public services for reasons of exceptional documentary interest or for archives;
(f) other cases in which use of the work without the author's consent is lawful.

(2) The protection granted to the performer in this chapter shall not include performances arising from official functions or under employment contracts.

Conditions for protection

Article 190. (1) The performer shall be protected when one of the following conditions is fulfilled:

(a) he is of Portuguese nationality;
(b) the performance is on Portuguese territory;
(c) the original performance was fixed or broadcast for the first time on Portuguese territory.

(2) Phonograms and videograms shall be protected when one of the following conditions is fulfilled:

(a) the producer is of Portuguese nationality or has his headquarters on Portuguese territory;
(b) the separate or combined fixing of sounds and or images has been lawfully carried out in Portugal;
(c) the phonogram or videogram has been published for the first time or simultaneously in Portugal, simultaneously meaning publication according to the provisions of paragraph (3) of Article 65.

(3) Broadcast programs shall be protected when one of the following conditions is fulfilled:

(a) the organization's headquarters are situated on Portuguese territory;
(b) the broadcast program has been transmitted from a station situated on Portuguese territory.

Presumption of agreement

Article 191. Where the interested party has submitted a request approved by the Ministry of Culture and it has not proved possible to contact the owner of the right or he has not replied within the reasonable period provided, his consent is presumed, but the interested party may only effect the use requested if he guarantees payment of the remuneration.

Forms of exercise

Article 192. The provisions on forms of exercise of copyright shall, where appropriate, apply to the forms of exercise of related rights.

Scope of protection

Article 193. Performers, producers of phonograms or videograms, and broadcasting organizations protected by ratified and approved international conventions shall also benefit from protection.

Retroactivity

Article 194. (1) The duration of protection and the calculation of the respective period shall be determined according to the provisions of Articles 183, 186 and 188, even where the events giving rise to protection occurred before this Code's entry into force.

(2) Where the owners of related rights, through legal provisions, benefit from a longer period of protection than that provided for in the present Code, the latter shall prevail.

TITLE IV

Infringement and Protection of Copyright and Related Rights

Infringement

Article 195. (1) Any person who, without the authorization of the author or performer, the producer of the phonogram or videogram or the broadcasting organization, uses a work or performance for any of the uses provided for in this Code, shall be guilty of the offense of illegal exercise of rights.

(2) The following persons shall also be guilty of the offense of illegal exercise of rights:

(a) any person who unlawfully discloses or publishes a work not disclosed nor published by its author or not destined to be disclosed or published, even where he presents it as the respective author's work and whether or not he seeks to obtain economic benefits;

(b) any person who makes a collection or compilation of published or unpublished works without the author's consent;

(c) any person granted an authorization to exploit a work, performance, phonogram, videogram or broadcast program who exceeds the limitations of the said authorization, except for the cases specifically provided for in this Code.

(3) Any author who has transferred his respective rights in whole or in part, or who has authorized the use of his work in any of the forms provided for in the present Code, and who uses it directly or indirectly in a manner prejudicial to the rights granted to a third party, shall be liable to the penalty provided for in Article 197.

Infringement

Article 196. (1) Any person who unlawfully represents as being his own creation or performance, a performance, phonogram, videogram or broadcast program which reproduces in whole or in part another person's work or performance, whether disclosed or not, or in such a way that it does not have its own specificity, shall be guilty of the offense of infringement.

(2) Where the reproduction referred to in the preceding paragraph represents a part or fragment of the work or performance, only the said part or fragment shall be deemed to be infringement.

(3) Infringement shall not necessarily imply that the reproduction must be made by the same process as the original, nor need it be of the same size or format.

(4) The following shall not constitute infringement:

(a) any resemblance between duly authorized translations of the same work, or between photographs, drawings, engravings or other forms of representation of the same object, where, despite the similarities due to the identity of the object itself, each one of the works has its own specificity;

(b) any reproduction by photography or engraving made solely for the purposes of illustrating criticism of art.

Penalties

Article 197. The offenses mentioned in the preceding Articles shall be subject to a term of imprisonment of up to three years and a fine of 50 to 150 days, according to the gravity of the offense, both being doubled in cases of recidivism provided that the offense in question does not constitute an offense punishable by a more severe penalty.

Infringement of moral rights

Article 198. Any person who commits the following offenses shall be liable to the penalties provided for in the preceding Article:

(a) any person who unlawfully claims authorship of a work or performance that he knows does not belong to him;

(b) any person who unlawfully harms the authenticity or integrality of a work or performance, carrying out acts that prejudice and might affect the honor and reputation of the author or performer.

Use of infringed or unlawfully appropriated works

Article 199. (1) Any person who sells, offers for sale, imports, exports, or in any way distributes to the public an infringed or illegally used work or an unauthorized copy of a phonogram or videogram, whether the copies in question were produced in Portugal or abroad, shall be liable to the penalties provided for in Article 197.

(2) Negligence shall be liable to a fine not exceeding 50 days.

Criminal proceedings

Article 200. (1) Criminal proceedings concerning the offenses provided for in this Code shall not be subject to a complaint by the injured party, unless the offense solely concerns infringement of moral rights.

(2) In the case of works falling within the public domain, the complaint shall be submitted by the Ministry of Culture.

Attachment and loss of objects related to the committing of an offense

Article 201. (1) Copies of works illegally used or infringed shall be seized, whatever the nature of the work and the form of infringement, together with the corresponding material packaging, the machines, instruments or documents suspected of being used or being destined for use in committing the offense.

(2) The finality of all the objects seized shall be fixed in the final judgment, whether or not an application has been made, and when it has been proved that they were destined for use or were used in the offense, they shall be considered to have been handed over to the State and the copies shall automatically be destroyed without any right to compensation.

(3) In cases of *flagrante delicto*, the competence for seizing the copies shall belong to the police and administrative authorities, namely, the Police Force, the Public Security Police, the Republican National Guard, the Revenue Police and the Directorate General of the Economy.

Special regime in cases of infringement of moral rights

Article 202. (1) Where only authorship of the work has been claimed, instead of ordering its destruction, the Court may, at the author's request, require the copies seized to be handed over when it is possible to guarantee or authenticate such authorship by adding to or replacing the relevant indications.

(2) Where an author defends the integrality of his work, the Court may, instead of ordering the destruction of the copies distorted, mutilated or amended in any way, hand them over to the author at the latter's request where it is possible to return them to their original form.

Civil liability

Article 203. Civil liability derived from infringement of the rights provided for in this Code shall not be dependent upon the criminal procedure to which it gives rise, it may however be exercised in conjunction with criminal action.

Regime of minor offenses

Article 204. Where no specific regulations already exist, the provisions of Legislative Decree No. 433/82 of October 27, shall apply to minor offenses.

Minor offenses

Article 205. (1) The following shall constitute minor offenses liable to a fine of 50,000 to 500,000 escudos:

(a) failure by importers, manufacturers and sellers of material carriers for phonographic and videographic works to communicate the amounts imported, manufactured and sold, in accordance with the provisions of paragraph (2) of Article 143;

(b) failure by manufacturers and reproducers of phonograms and videograms to communicate the quantities they have manufactured or reproduced, in accordance with the provisions of paragraph (3) of Article 143.

(2) Failure to respect the provisions of Articles 97, 115, paragraph (4), 126, paragraph (2), 134, 142, 154, 160, paragraph (3), 171 and 185, shall also constitute minor offenses liable to a fine of 20,000 to 200,000 escudos, and do not exempt from the need to indicate the name or pseudonym of the performer, including in the case of paragraph (1) of Article 180.

(3) Negligence shall be liable to punishment.

Competence for procedure regarding minor offenses and for enforcing fines

Article 206. Competence for procedure regarding minor offenses and for enforcing fines shall belong to the Director General of Entertainment and Copyright.

Effects of appeal

Article 207. Appeals against decisions in cases involving fines not exceeding 80,000 escudos shall not have a suspensive effect.

Use of fines collected

Article 208. The amounts of the fines collected for minor offenses shall belong to the Fund for Cultural Promotion.

Preventive measures

Article 209. Without prejudice to the preventive measures provided for under the law, the author may request the police and administrative authorities of the place in which infringement of his right has been ascertained the immediate suspension of any performance, recitation, presentation or any other form of exhibition of the protected work that is being carried out without his due authorization and he may also request the attachment of all the receipts.

Unlawful identification

Article 210. Unlawful use of a literary or artistic name or of any other form of identification of the author shall give the interested party the right to compensation for damages, in addition to cessation of its use.

Compensation

Article 211. In calculating the compensation due to the injured party, the amount of the receipts derived from the unlawful performance or performances shall be taken into account.

Unfair competition

Article 212. The protection granted under the present Code shall not prejudice the protection afforded under the provisions of the legislation on unfair competition.

TITLE V

Registration

General regulations

Article 213. Copyright and the right derived therefrom shall be acquired independently of registration, without prejudice to the provisions contained in the following Article.

Registration of titles

Article 214. Registration of the following shall condition legal protection:

(a) the title of the unpublished work according to the provisions of paragraph (3) of Article 4;
(b) the titles of newspapers and other periodical publications.

Subject of registration

Article 215. (1) The following shall be subject to registration:

(a) facts concerning the constitution, transfer, payment, assignment, modification or lapsing of copyright;
(b) the literary or artistic name;
(c) the title of the work even when not published;
(d) seizure and attachment of copyright;
(e) authorization in accordance with Article 74.

(2) The following shall also be subject to registration:

(a) acts whose principal or secondary objective is the constitution, recognition, modification or lapsing of copyright;
(b) acts whose principal or secondary objective is the rejection, declaration of nullity or annulment of a registration or its cancellation;
(c) the relevant final decisions immediately after a judgment is communicated.

Literary or artistic names

Article 216. (1) A literary or artistic name may only be registered on behalf of the creator of a previously registered work.

(2) Registration of a literary or artistic name shall have no other effect than mere publication of its use.

Final Provisions

Disputes

Article 217.— The settlement of any dispute arising from application of the provisions of the present Code, provided that it does not concern inalienable rights, shall be subject to arbitration according to the provisions of the general legislation.

Table referred to in paragraph (3) of Article 74

Each registration	5,000 escudos
Filing of lists of societies of authors or similar bodies — each list	2,000 escudos
Replacement of lists	Free
Filing of additions to lists of societies of authors or similar bodies — each addition	1,000 escudos
Withdrawal of registration after it has appeared in the *Diario*	1,000 escudos
Each certificate	1,000 escudos

The Berne Convention and National Laws

A Century of Copyright: the United Kingdom and the Berne Convention

Ivor DAVIS*

I. Introduction: the Origin of Copyright Law in the United Kingdom

1. It has been said that laws are, in general, indicators rather than determinants of the nature and state of the society in which they work; copyright law is no exception. But when States in their common interest unite in an enterprise designed to create a common system of law what they agree on is a synthesis of their individual ideas and desires. Nowhere is this better illustrated than in the transition from the insular domestic law of tbe United Kingdom to a law which fully accords with its membership of a great convention.

United Kingdom law owes its distant origins to the development and speed of printing presses from the 15th century. Although, in England at least, its 16th and 17th century antecedents owed as much to the State's desire to control the reading matter available to the public as to motives of protecting and rewarding authors or encouraging the dissemination of new material, by the 18th century it was beginning to reflect the growing enlightenment of society at large. The Statute of Anne of 1709, which may properly be regarded as the world's first modern copyright law, recognized and established an author's sole printing rights in his work, although for a period of only 14 years. Later additions to English copyright law introduced concepts of artistic copyright in materials such as engravings, sculptures, paintings and drawings, and of the right to authorize public performance of works, including music.

2. Social factors such as increasing public literacy and growing demand for public entertainment no doubt contributed to these 18th and 19th century developments, as it became increasingly recognized tbat creative workers needed protection against unauthorized exploitation of their works. Advances in science and technology also contributed, for example, with the introduction in 1862 of copyright in photographs. Our own century has seen many more examples of the extensions of copyright law into fields opened up by the development of new technologies, such as film, sound recordings, radio and television broadcasts, botb terrestrial and satellite, cable diffusion and computers.

3. By the 1880's copyright law in the United Kingdom was governed by a large number of statutes. Literary copyright, which covered, for example, sheet music, maps, charts and plans as well as more obviously "literary" material such as books and pampblets, extended for the life of the author plus seven years, or 42 years from publication, whichever was the longer. Works published after the author's death enjoyed protection for 42 years after publication. The performing right extended for the same period. A form of registration existed, but was necessary only if a copyright owner wished to bring an action against an infringer.

4. Artistic copyright was less uniformly provided for. Engravings and prints attracted protection for 28 years from publication, provided that they bore the copyright owner's name and the publication date. Works of sculpture were protected for 14 years from publication, which meant in practice letting the public see it and for a further 14 years if the sculptor was still alive at the end of the first term. Paintings, drawings and photographs received protection for the life of the artist or photographer plus seven years, but registration was necessary and this was done at the Stationer's Hall, the home of one of the craft guilds.

II. International Copyright in the United Kingdom Before the Berne Convention

5. In the early days legislators in England, as in other countries where copyright concepts were beginning to emerge and evolve, tended to consider the issues in isolation from, indeed often in opposition to, developments elsewhere in the world. Protectionism of the very narrowest kind was certainly

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the order of the day in 1533, for example, when a law was passed forbidding the importation of books into the Kingdom. By the 19th century, however, such isolationism had been overtaken by a growing sense of the nation's place in the world at large, and this touched the fields of literature, art and music as all other areas of life. To a degree this related to Britain's imperial role in that certain of the copyright statutes applied throughout the then Empire, but a broader recognition developed in the early part of the century of the need for British authors to be protected abroad.

6. First in 1837, and then more comprehensively in 1844, International Copyright Acts were passed empowering the Crown to issue Orders in Council extending copyright protection in the United Kingdom to cover works first published in foreign countries to be specified in the Orders. Orders could specify shorter terms of copyright for foreign works than for British ones, and registration and deposit were required to secure protection for foreign works. Between 1846 and 1886 the United Kingdom entered into a series of bilateral treaties with many of her European neighbors providing reciprocal protection to authors of the respective countries, and corresponding Orders in Council under the 1844 Act were promulgated.

III. The Establishment of the Berne Convention (1886)

7. The complex situation which developed internationally, with varying copyright protection not only between countries but also within countries as a result of differences between the many bilateral treaties that existed, led to calls for a more uniform and rational approach. In September 1884 the Swiss Federal Council convened an International Conference to consider a draft Convention following an initiative the previous year by the International Literary Association.

8. Some features of the early drafts, for example in relation to registration, deposit and translation, caused initial doubts within the United Kingdom, as did concem at the incompleteness of the international representation at the 1884 Conference. Nevertheless, the British delegate to the Conference was so persuaded by the progressive and cooperative tone of the debate that he urged that the Government in London should involve itself more closely in the ongoing work, and should consider introducing such amendments to British copyright law as would be necessary to allow entry to the proposed Copyright Union.

9. That same delegate, Mr. Francis Adams, the permanent British representative in Berne, played an active role on behalf of the United Kingdom at the Second International Conference in September 1885 which framed the final form of the Convention. The chief British influence at that Conference was to encourage the formulation of a Convention which set out essential broad principles on which all parties were agreed, rather that defining detailed provisions which could not easily be accepted by a significant number of countries. That this objective was achieved is evidenced by the decision of Her Majesty's Government soon after the Second Conference to place before Parliament a Bill which would enable the United Kingdom to sign the Convention. That Bill was passed as the International Copyright Act 1886 in time for Sir Francis Adams, as he had now become, and his Foreign Office colleague Mr. Henry Bergne, to be able to sign the Convention on behalf of the United Kingdom and all British colonies and possessions at the Third International Conference in Berne, on September 9, 1886 — the centenary of which event this series of articles commemorates. One is impressed by the enthusiasm with which the two Britons took up the copyright cause — starting one assumes from little basic knowledge.

10. The main features of the original text of the Berne Convention are well known; the establishment of the principle of national treatment for authors from Berne countries and for Berne country publishers of works by non–Berne authors, subject to any formalities required in the country of origin and the limitation of term to that in the country of origin; the translation right extending for 10 years from original publication; the inclusion of the public performance right. These and the other provisions of the Convention were all accommodated by the 1886 Act.

11. This Act introduced two main alterations of substance to existing copyright law. First, registration and deposit in the United Kingdom of foreign works were no longer required, although, because of the complicated relationship between the numerous statutes in force at that time, it was 1891 before the courts finally confirmed that this was the correct interpretation of the 1886 Act. Registration and deposit requirements for British–originated works remained unchanged, with the result that foreign works were to that degree treated more favorably than British ones.

12. The second main change of the 1886 Act concerned translations, with respect to which the Act was more generous than the Convention required. An exclusive right to produce or import

translations was granted in respect of foreign works, extending for the full term of the copyright in the original work. The expiry of the translation right 10 years after the original language publication, as provided for by Article 5 of the Convention, only applied if no authorized translation into English had been made by that time. Foreign authors had enjoyed no corresponding rights under earlier British laws, which had only given a right to authors of plays first published abroad to prevent the performance in British dominions of unauthorized translations for four years following the first publication or performance of an authorized translation.

13. A further effect of the 1886 Act, not directly related to the Convention, was for the first time to apply British copyright law to works originating in British possessions. This meant that a work produced in one of the possessions received protection in all of them. However, the decision was taken to introduce no comprehensive reform or consolidation of British law at this stage. The United Kingdom ratified the Convention on September 5, 1887, and it came into effect three months later. On November 28 the same year an Order in Council was issued under the 1886 Act giving full effect to the Convention throughout the British dominions.

IV. The Additional Act of Paris (1896)

14. The Paris Act of 1896, which was adopted by the United Kingdom by an Order in Council dated 1898, required no alterations in primary British copyright legislation. Its most important effect was to modify the "10 years after first puhlication" translation right of the original text to conform with the British law in this respect (paragraph 12 above). There had been some support at the Paris Conference for unconditional assimilation of the translation right to the full period of protection of the original work, but the British delegation had been concerned that this might prevent new States from joining the Union, and proposed the British model as an acceptable compromise. The other main change, the granting of protection under the Convention to non–Union authors of works first published in a Berne country, rather than to their publishers as in the original text, was in accord with the view which the United Kingdom had taken at earlier Conferences.

15. The United Kingdom was unable to accept an "Interpretation Declaration" agreed at the Paris Conference by the other signatories, primarily because this would have imposed a definition of "puhlication" which excluded public performance of a dramatic work, and would have required the protection of a novel against its adaptation into a play. Both interpretations were inconsistent with law in the United Kingdon as it stood at that time.

V. The Berlin Revision (1908)

16. The Berlin Conference of 1908 set out with the ohject of achieving a simpler, more comprehensive text to which all countries of the Union could agree. In this it was largely successful, producing a general shape of the Convention which is still recognizable in modern texts. At the same time the Berlin text established what has ever since been accepted as one of the central Berne principles: that copyright protection under the Convention should not be subject to the completion of formalities.

17. The relatively recent developments of the cinematograph and the phonograph were both recognized, with the reproduction of works in these new media being brought within the scope of copyright, and with films heing protected *per se* as literary or artistic works, provided that their creators had imported a personal or original character to them. Of these provisions, the United Kingdom particularly supported the introduction of the mechanical reproduction right, in order to estahlish a fairer balance between composers and the growing phonogram industry than was possible under the Final Protocol to the original Berne text, which made it clear that there was no ohligation to give the copyright owner rights over mechanical reproduction devices (at that time primarily musical boxes and similar devices). The controversial nature of this new right containing his work was acknowledged hy its being made subject to the possibility of reservation. A foretaste of developments to come much later in separate conventions was the British delegation's (unsuccessful) advocacy in Berlin of protection for sound recordings *per se*.

18. Other important changes also occurred in Berlin. For example, the process begun in Paris was completed by the extension of the translation right to the full term of the copyright in the original work. The need for an express reservation of the performing right in musical works was removed. The definition of "publication" was modified to exclude explicitly puhlic performances.

19. While several of these changes attracted a degree of controversy, there is no douht that the most difficult issue in Berlin was that of term. The outcome was a not altogether satisfactory compromise. While the final text stated for the first time that the term granted by the Convention comprised the life of the author plus 50 years, which by this

time was already the period of protection in several countries, it remained open to member States to adopt a different term.

20. A sad footnote to the Berlin Conference was the death during the course of the Conference of Sir Henry Bergne, bead of the British delegation, who, as plain Mr. Bergne, had been one of the signatories of the original 1886 text, and wbo had represented the United Kingdom at each successive revision.

VI. The Copyright Act 1911

21. At the time of the Berlin Conference, Britisb copyright law was largely still in the complex and confusing condition that had existed immediately prior to tbe original Berne Convention, and it bad long been recognized that consolidation and reform were overdue. Although the British delegation in Berlin had been able to sign the final text, there remained many features of British law that were incompatible with the new provisions, and a major reform of the law was clearly necessary before the new text could be ratified. That reform came in the shape of the Copyright Act 1911, which replaced most of the multitude of earlier statutes and enabled the United Kingdom to ratify the Berlin text.

22. The 1911 Act was effectively the United Kingdom's first comprehensive copyright statute. It followed the provisions of the Berlin text at all points at which these conflicted with earlier British law, to the extent that in many respects it may be regarded more correctly as the product of the growing trend towards international conformity in copyright than as the natural successor to its British antecedents.

23. The new Act swept away the complicated structure of registration and deposit requirements under earlier laws, establishing in Britain the new Berne principle that subsistence of copyright should not be dependent upon the completion of formalities. Term was in general standardized as life plus 50 years, it being accepted that although this was not strictly required to meet the terms of the Berlin text, this period was the appropriate one on which to harmonize internationally. However, the principal benefit from this substantial increase in term relative to earlier British law was limited to the author's heirs by a provision that, regardless of any assignments or licenses made by the author, copyright reverted to his heirs 25 years after his death. This provision has produced severe administrative complications in later years. The only exceptions to this were collective works, and cases where the author had assigned or licensed the copyright in his will. In addition, anyone was free, 25 years after an author's death, to reproduce his work for sale, provided that a specified royalty was paid to the copyright owner. A compulsory licensing provision also operated after the death of tbe autbor of any work which had been published or performed in public, so that the copyright owner was unable to refuse to license republication or further public performance.

24. Prior to 1911, the law in the United Kingdom as to whether the making or showing of a film version of a work infringed copyright in the work was not settled, but the 1911 Act followed the Berlin text in establishing that this was so. As to the new Convention requirement that films should themselves attract protection if they possessed a personal or original character, the Act granted a film production protection as a dramatic work provided the arrangement of acting form or the combination of incidents represented gave the work an original character. In addition the individual photographs of the film continued to be protected as artistic works, as under earlier laws, and there was a separate copyright in any script.

25. By the first decade of the 20th century a large phonogram industry had grown up in the United Kingdom on the understanding that, under British law, a composer had no rights over the production of mechanical devices reproducing his work as sound recordings, as required in the original Berne Final Protocol. The proposal to reverse this provision in response to the Berlin text caused great controversy, with the outcome that a compromise solution was adopted by Parliament. Although a composer was given an unfettered right to make or to license another person to make a first mechanical reproduction of his work, once he had done so he was obliged to license anyone else to do the same on payment of a specified royalty. Consistent with British advocacy in Berlin of protection for sound recordings *per se*, the new Act also introduced sucb a copyright for a period of 50 years from making.

26. The 1911 Act and the subsequent ratification of the Berlin text were applied to all tbe then British dominions, other than those which were at the time self-governing, whicb later either themselves adopted the Act, with or without modifications, or passed independent laws along similar lines.

VII. The Berne Additional Protocol (1914)

27. The Copyright Act 1911 included a provision whereby if a foreign country failed to give adequate copyright protection to the works of British authors, Orders in Council could be issued directing that work by subjects of that country first publisbed in the United Kingdom or other territories to which

the Act extended should not receive protection under the Act. Upon a subsequent British initiative, a corresponding provision concerning the works of non–Berne authors was incorporated into the Convention by an Additional Protocol signed in Berne in 1914.

VIII. The Rome Revision (1928)

28. The revised text agreed in Rome in 1928 was less far–reaching in its innovations and modifications than its Berlin predecessor, and this is reflected in the fact that the United Kingdom was able to ratify the new text without amendment to the 1911 Act. A significant factor contributing to this was no doubt the very comprehensiveness of the Berlin text, which had already established the broad principles which remain the foundation of the Convention. Another may have been that the Rome Conference amended the text to prevent States newly adhering to the Convention from making reservations on particular Articles, except in relation to translations, and this tended to lead to greater caution in accepting new or altered provisions.

29. Nevertheless, a number of important changes were made in Rome. The British delegation played a leading role in introducing a provision which recognized the development of radio as a new and potentially important medium of communication, giving authors the exclusive right, subject to regulation by national legislation to authorize the radio broadcasting of their works. This was achieved in the 1911 Act as part of the performing right. The copyright protection available to film was extended to cover films which did not possess an original character, these enjoying protection under the new text as photographic works, as already provided in the United Kingdom by the 1911 Act.

30. There was debate in Rome as to whether protection should be extended to oral works. Since it had by this time become established by the English courts that to qualify for protection a literary work had to be expressed in printing or writing, this proposal created difficulties for the United Kingdom, but since British law already protected lectures, addresses and sermons, the eventual incorporation of these items into the Convention was agreeable. *Droit moral* also appeared for the first time in the Rome text.

IX. The Brussels Revision (1948)

31. For the United Kingdom the main significance of the revised text adopted in Brussels in 1948 lies in the fact that, as regards substantive provisions, this remains the text to which we adhere, although at the time of the Conference the incompatibility of the still–effective 1911 Act with certain features of the new text prevented its immediate ratification by the United Kingdom.

32. Of the many detailed amendments to the Convention introduced in Brussels, probably the most significant at least from the standpoint of compatibility with British law, related to the term of protection. The option for member States to derogate from the standard minimum term of life plus 50 years was removed, and the terms for anonymous, pseudonymous and posthumous works and works of joint authorship were standardized.

33. Other important changes included modification of the definition of publication so that publication within 30 days in different countries counted as being simultaneous; assimilation of rebroadcasting, relaying and public playing of broadcasts to the basic broadcasting right introduced in Rome, extension of the author's right in relation to the filming of his work to cover distribution and public performance of the film; and the guarantee of an author's right to equitable remuneration in respect of the mechanized recording of his work, even in member States which declined to give an exclusive recording right.

X. The Copyright Act 1956

34. By contrast with the 1911 Act, which had introduced very substantial amendments to British law specifically to meet the terms of the then current text of the Berne Convention, the further changes needed to enable the United Kingdom to accede to the Brussels text were very limited. The only major change introduced by the new Copyright Act 1956 specifically for this purpose was the repeal of the compulsory licensing provisions relating first to publication and performance after an author's death of already published and or performed works, and second to reproduction for sale of all works 25 years after his death. Adjustments were also required to the term for works of joint authorship and to the definition of publication, as well as to accommodation to the Brussels requirement that quotations or extracts from works should acknowledge source. Although not required by the Brussels text, the provision whereby interest in copyright, the subject of an agreement, reverted automatically to an author's heirs 25 years after his death was abolished except in respect of agreements made before the Act came into force.

35. Internationally the period immediately prior to the passing of the 1956 Act had been significant

primarily for the establishment of the Universal Copyright Convention, bringing together for the first time within a common copyright treaty many of the members of the Berne Union and a number of countries which had been unable to accede to Berne. The common English language heritage which the United Kingdom shares with the United States of America had always made that country a very significant one for British authors, and it had been a continuing source of disappointment in the United Kingdom since the foundation of the Berne Convention that the United States had been unable to accede to it. Although a measure of protection had been available in the United States to British authors since the American Act of 1891, the Universal Copyright Convention gave an opportunity to remedy the incompleteness of this protection, and it was plainly desirable for the United Kingdom to accede to it. The only substantive change of law required in the 1956 Act to enable the United Kingdom to do so resulted in the protection of the published works of nationals of contracting States when first published other than in the United Kingdom or a Convention country.

36. Although the amendments to British copyright law required by convention alone were not extensive, the 1956 Act introduced important reforms to deal with developments which had occurred since 1911. Among the more significant of these was the provision for the first time of an independent 50 year copyright in films and in radio and television broadcasts corresponding to that already subsisting in sound recordings, and publishers were also given a 25 year copyright in the typographical arrangements of their published editions. These new copyrights were all granted without prejudice to those subsisting in any works included in film or broadcasts or published in a new edition.

37. The concern of the United Kingdom Government, expressed at successive Berne revision conferences, that means should be provided to deal with any abuse of the effective monopoly arising from the collective exercise of the performing right, was reflected in the establishment of the Performing Right Tribunal, with jurisdiction over disputes between collecting societies representing right owners in this field and those seeking licenses. There had been an important debate on this issue at the Rome Conference which, however, had been unable to agree to a British proposal to include a specific Article permitting member States to adopt measures to prevent abuse of monopoly. Nevertheless, there had been a general view at that Conference, later to be repeated at Stockholm, that the Convention allowed any country to deal as necessary with any abuses which might arise. In Brussels the United Kingdom had made a declaration stating that it accepted Article 11, concerning the performing right, on the understanding that it remained free to legislate so as to deal with any abuses of monopoly.

38. Industrial designs warrant a brief mention at this point. They first appeared in the Berne Convention in its 1908 Berlin text, but the controversy surrounding the issue was reflected in the fact that the principle adopted, which has been retained, albeit in varying expression, in all subsequent texts, was that domestic legislation should determine the application of protection in this area. At the time of the Berlin Conference the British Government had been undecided as to how to deal with the question, but the 1911 Act resolved the matter by determining that works which were capable of registration under separate design legislation and were intended for mass reproduction should be excluded altogether from artistic copyright. The 1956 Act followed the same broad principles of avoiding dual protection, but the exclusion from artistic copyright protection only now applied in relation to the use of the design for industrial purposes. However, this position has subsequently been radically altered once more by an amending Act of 1968. Under this Act, which was introduced primarily to meet the concerns of the jewellery industry, dual protection under both registered design and copyright legislations is possible for 15 years from first marketing. After that time, by which any design registration will have expired, copyright protection shall not apply in relation to the industrial use of the design.

XI. The Stockholm and Paris Revisions, (1967 and 1971)

39. The situation which arose in Stockholm in 1967 as a result of the adoption of the Protocol Regarding Developing Countries, and which led to the further Conference in Paris in 1971 at which modified and more widely acceptable developing country provisions were adopted, both in an appendix to the Berne Convention and in the Universal Copyright Convention, is not relevant to the subject of this paper. For the present purpose, therefore, the two texts can be considered altogether since their substantive provisions are in all other respects identical. In passing it is noteworthy that Stockholm saw not only the establishment of the World Intellectual Property Organization but also the production of the first authentic English text of the Berne Convention.

40. One of the most striking innovations of the new text was that for the first time the fundamental principle underlying copyright — the exclusive re-

production right — was explicitly spelt out. An important consequential revision was that the principle under which exceptions may be made to this general right was also established. The twin criteria of absence both of conflict with a normal exploitation of the work and of unreasonable prejudice to the legitimate interests of the autbor now reflected at international level the central objective of a proper balance between the interests of creators and users of copyright material, which had for many years been at the root of British copyright law.

41. Among the many other detailed amendments of varying significance was the inclusion of a provision that national legislation may prescribe that works shall only be protected when fixed in material form. This recognized what had for long been an essential qualification for copyright protection in the United Kingdom.

XII. Recent and Future Changes in United Kingdom Copyright Law

42. Since the passing of the 1956 Act there have been several detailed amendments to copyright law in the United Kingdom. The 1968 Act regarding industrial designs has already been mentioned. Laws have been passed strengthening and extending the criminal provisions of the 1956 Act against commercial piracy of films and sound recordings. The application of copyright in the fields of cable diffusion and broadcasting has been modernized in a new Act dealing generally with the regulation of these fields. The criterion for determining the term of copyright in a film has been modified in general film legislation. Most recently amendments have been adopted clarifying the application of copyright to the rapidly growing world of computers. It is now established that computer programs attract copyright protection, as does any work created directly in a computer, and that storing a work in a computer is a form of reproduction requiring the copyright owner's consent.

43. A comprebensive review of copyright and related laws has been under way for several years in the United Kingdom. Although at the time of writing, firm legislative proposals in the form of a Government White Paper have not yet been published, a new Copyright Bill is expected to be placed before Parliament in the near future, perhaps later this year. This is not the place to speculate on the full extent of the reforms that will be brought forward but it should be noted that the Government has already indicated its intention to accede to the Paris Act of the Berne Convention. This will necessitate the inclusion in the new Bill of a number of relatively minor provisions, of which perhaps the most significant arises from the Berne requirement that at least a part of the moral right shall extend for the full term of the copyright in a work.

XIII. Conclusions

44. Thus the process of interaction between national legislation and international consensus will continue, as it has for the past one hundred years. It emerges strikingly from the study of the progressive evolution of the text of the Berne Convention how the level of international agreement it represents has developed. In the early stages, the Convention was concerned only with the broad, fundamental principles underlying copyright, but successive texts have extended the level of detail at which the nations of the world have been able to agree on the harmonization of their copyright regimes.

45. I suggested in my opening words that laws in general, and copyright laws in particular, indicate the nature and state of development of the society in whicb they operate. Something similar can be said of the great multilateral agreements that exist between nations, which are barometers both of the state of technical and cultural development of mankind, and of the spirit of cooperation that exists between sovereign states. The immense progress that has been made over the past century in the first of these areas through all aspects of the communications revolution in which we are still living is reflected in the manner in which the Berne Convention has continued to move into new areas throughout its history. But of surely greater significance, and of great encouragement for the future of humanity, is the cooperative spirit that is embodied in the degree of detailed agreement contained in the Convention. The Berne Convention represents, at their best, mankind's ability and desire to work togetber in pursuit of common objectives while maintaining the cultural diversity that marks us out as separate nations.

XIV. Postscript

46. It is a happy coincidence that the year which sees the centenary of the Berne Convention also marks the bicentenary of the Board of Trade, the branch of Government in the United Kingdom which was, and through its successor the Department of Trade and Industry still is, responsible for all aspects of intellectual property, including copyright. As we move respectively into our second and third centuries, I venture to hope that a hundred years from now, a distant successor of mine will be able to write a sequel to this article.

The Interplay Between the Berne Convention and the Developing Countries in the Evolution of Copyright

Nébila MEZGHANI*

Introduction

It would seem that our century is characterized by the general recognition of a right to the protection of art. Doubtlessly, the recognition of copyright had already been regulated well before our time, but only in a small number of countries.

Today, the protection of copyright extends to even those countries with only a minimum of intellectual production, since the idea is now firmly anchored that intellectual property is a source of social progress and that its legal protection can but promote cultural development and, consequently, economic and social development.[1]

This new awareness of a relatively young field of law is indeed a logical development. Sight should never be lost of the fact that law concerns people and that it should be fashioned on life and adapted to its various manifestations. Law cannot therefore ignore creative activity.

> Does not this science (of law) act upon living matter and does it not encompass man in his entirety as from his awakening and throughout the course of all his social activities?[2]

Since such is the case, do these activities not also include literary and artistic activity? To quote a German philosopher,

> ...the common view is that a work is created by and through the activities of the artist. However, by what means and in what way has the artist, for his part, become what he is? Through the work, since if "the work reveals the master" it is indeed the work alone that makes the artist a master of his art.[3]

One of the factors that have led the legislation of the developing countries to adopt provisions to protect copyright remains principally the Berne Convention for the Protection of Literary and Artistic Works, adopted on September 9, 1886, which entered into force on December 5, 1887, following its ratification by the following eight countries: Belgium, France, Germany, Great Britain, Italy, Spain, Switzerland and Tunisia.

As the first international copyright convention, the Berne Convention is to celebrate its one-hundredth anniversary. This centenary furnishes a propitious occasion to take stock of the part it has played in regulating international relations in literary and artistic property, particularly the influence it has exerted on the birth and development of copyright in the developing countries.

The purpose of our study will not be to analyze the content of the various Acts that have followed each other in the context of the Berne Convention.[4]

Our interest will be focused above all on the revision Acts of Stockholm (1967) and of Paris (1971), since it was essentially at those revision conferences that the most thorny problem was posed in respect of the delicate matter of how to reconcile two opposing interests: that of the developed countries, that wished to strengthen the protection of their cultural heritage, and that of the countries that were not developed and which, freshly independent, demanded facilities for acceding to that heritage.

In fact, and in a general fashion, the aim was to harmonize, at the international level, the individual interests of the author with the general interests of the community or, to be more exact, the interests of the producers with those of the users of culture, and to strike a balance between those two interests.

This first international copyright convention had therefore, through the international commitments it comprised, to respond to the national demands, on the one hand, and to moderate them, on the other.

The problems of adapting, at the international level, the principles governing copyright to the situation of the developing countries led certain of those countries to participate actively in the discussions and preparation of these last two revision conferences and to contribute towards seeking a compromise solution.

Following the major confrontation of legal theories and political opinions in connection with the

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[1] Cf. His Excellency Mr. Habib Bourguiba, "The Role of Creative Activity in Development," *Copyright*, 1976, pp. 57 *et seq.*; E. Nana Kouanang, "Some Reflections on Copyright and Protection of the Cultural Heritage in Africa," *ibid.*, 1976, pp. 235 *et seq.*; Mihailo N. Stojanović, "The *Raison d'Etre* of Copyright," RIDA 1979, No. 102, pp. 125 *et seq.*

[2] Choukri Cardahi, "Nos sentiments et nos passions devant la justice et la loi," Annales de la Faculté de droit de Beyrouth, No. 2, 1951.

[3] Martin Heidegger, "Chemins qui ne mènent nulle part," Collection Idées, éditions Gallimard, p. 13.

[4] Cf. on this item, Henri Desbois, André Françon & André Kerever, *Les Conventions internationales du droit d'auteur et des droits voisins*, Dalloz, 1976; RIDA 1974, No. LXXIX, special issue to celebrate the twentieth anniversary of RIDA: "Histoire internationale du droit d'auteur des origines à nos jours."

Stockholm and Paris Revision Conferences, international literary and artistic property has gone through a relatively quiet period and it would be of interest today to look into the part played by the developing countries in the evolution of copyright at the international level, particularly during the last two Berne Convention Revision Conferences (Part I) before going on to demonstrate the influence that the Convention has exerted on the copyright laws of developing countries (Part II).

However, it should be observed that the centenary of the Convention occurs at a time at which, faced with the development of advanced techniques for the dissemination of thought and of new forms of exploitation of works of the mind, problems are beginning to arise and to nourish a lively doctrinal debate on the question whether the rules laid down by the international copyright conventions, particularly the Berne Convention, continue to be appropriate to the current context in which copyright is exercised.

Following the two above-mentioned parts, we shall therefore attempt, in the conclusion, to ascertain whether the Berne Convention still constitutes an effective tool for defending copyright.

PART I

The Role of the Developing Countries in the Evolution of Copyright, Particularly at the Stockholm and Paris Revision Conferences

The idea of the developing countries exerting influence on the Berne Convention may appear improbable since, originally, it was the developed countries that conceived and instituted protection for the rights of creators of works of the mind.

Prior to the establishment of the Berne Convention, a number of countries already afforded such protection in their national legislation, either in a fairly fragmentary form (France, Great Britain, United States of America) or in a detailed and comprehensive form (Belgium, Germany, Italy and Switzerland).

These statutory instruments exerted a marked influence on the structure and content of the original Berne Convention and doubtlessly also had their effect on its subsequent development.[5]

In the most developed of the European countries, copyright was already autonomous and afforded an exclusive right in respect of the economic exploitation of works of the mind.

The universal nature of creation and the fact that it constituted an "intangible asset" had already been highlighted and had given rise to specific protection. Prior to the Berne Convention, the principle of protection for foreign works was already comprised in the majority of those national laws.

In addition, bilateral copyright treaties were quite frequent, but the entry into force of the Berne Convention meant that they became a rare occurrence.

The idea of setting up an International Union for the Protection of Authors' Rights originated at a Congress of the *Association littéraire internationale*, held in Rome in 1882. A Diplomatic Conference convened in Berne in September 1884 by the Swiss Federal Council drew up the first official draft of the Berne Convention.

The final draft for the Convention was discussed at a Diplomatic Conference that met in Berne in September 1886.

Thus was adopted the "International Convention for the Protection of Literary and Artistic Works."

Tunisia, as already mentioned, was one of the signatory countries of the Convention and was, at that time, under French protectorate. It was represented by France until independence in 1956.

Indeed, after June 14, 1934, when it ratified the Rome Revision Conference of June 2, 1928, it took no further part in any work in the field of copyright on an international scale until the preparatory work for the Stockholm Conference.

It is from that time onwards that it began to play a part that has been described as "second to none" in the adaptation of the Berne Convention to the needs of the developing countries.[6]

It should be remembered, in this context, that the level of protection under the Berne Convention had become progressively higher with each successive revision, up to that of Brussels in 1948.

As the decolonization movement gathered speed and the concept of a developing country spread throughout the world, it appeared inequitable to apply the Berne Convention, with its very high level of protection, to less developed countries.

The countries that were members of the Berne Union before their independence, as was the case of Tunisia, were so by the will of the States that represented them and not by their own personal choice. They justifiably claimed that they were not in a position to afford to foreign works the level of protection demanded by the Berne Union.

It was illogical to require these newly decolonized countries to enter into such heavy international commitments.

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[5] Cf. Valerio De Sanctis, "The Development and the International Confirmation of Copyright," RIDA, January 1974, p. 207.

[6] André Françon, "La Tunisie et la protection du droit d'auteur," *Revue tunisienne de droit*, 1977, No. 1, pp. 51 *et seq.*

As for those that were bound by neither of the Conventions, it appeared abnormal and even dangerous to leave them outside the international arrangements governing copyright, since such a state of affairs could lead to an anarchical situation highly prejudicial to the countries that produced works as, indeed, to those that did not, or at least produced very few, for a total absence of protection was not likely to encourage creativeness.

As a result of the problems arising from this new situation, work was put in hand on the Stockholm Revision, of which one of the aims was defined as follows:

> The program of the Conference was based on the concept that not only the extension of the protection afforded to authors by means of creating new rights or improving those rights already afforded was to be considered as an improvement, but also the general development of copyright by means of reforms aimed at making the rules easier to apply and to adapt them to the social, technical and economic circumstances of contemporary society.

Consequently, the Berne Convention, that had adopted a "European" concept of copyright up to the years 1960–1961, began to concern itself with the needs of the developing countries in the preparatory work for the Stockholm Revision Conference.

The developing countries pressed for an adjustment of the Convention in view of the "social, technical and economic circumstances of society."

The only possible solution was to insert into the Berne Convention a special status for the developing countries. However, the tendency of the Convention to take into account specific situations did not begin on that date. Indeed, a system of reservations was already incorporated in 1896.[7]

Originally, the 1886 Berne Convention aimed at setting up a uniform, common international system of copyright, to be followed up at national level by the States that acceded to it. However, political and economic considerations led to exceptions and reservations being incorporated. Subsequently, however, the 1928 Rome Act abolished that system.

The system of reservations was therefore restored when the problem of the developing countries arose.

This did not fail to call forth criticism.[8] However, the realities of society that constitute the basis for any legal system were not the same in the developed countries as in the developing countries. It was therefore natural that the problem should be discussed on an international scale and that special rules should be envisaged for the benefit of the developing countries, without material reciprocity.

The Stockholm revision thus attempted to provide a solution for the developing countries hy incorporating provisions for their benefit within a Protocol giving those countries a special status. The conditions of implementation of the Convention were limited in their respect by the entering of reservations in respect of the term of protection, the right of translation, the right of reproduction, the right of broadcasting and the use of works "for teaching, study and research in all fields of education."

However, the conditions for applying these restrictions were left to the choice of the developing countries, and the amount and the procedure for paying remuneration were to be decided by the national laws.

The freedom of action given to the countries enjoying this special status was held to be excessive by a number of countries producing literary works that refused to ratify the Stockholm Act, which was then doomed to failure.

Nevertheless, this failure was subsequently to lead in a roundabout way to a revision not only of the Berne Convention, but also of the 1952 Universal Copyright Convention, which took place in Paris in July 1971.

It was held desirable that both of the multilateral copyright treaties should contain the same solutions in order to avoid a rivalry that would be prejudicial to the creators of works of the mind and to avoid any country having a major reason to prefer one system to the other or to leave one system for the other.

The 1971 Paris Act, which replaced the Stockholm Act, constitutes the most recent status of international copyright. It is not the intention here to examine in detail the machinery and the content of the status of which the developing countries may avail themselves. Relevant studies have been undertaken on this question and it would suffice to refer to them.[9] In this article, I shall attempt to pinpoint the part played by certain developing countries in the evolution of the discussions generated by the facilities demanded by the developing countries and in the adoption by the Paris Conference of special rules for those countries.

In what have been referred to as "the preliminary horse trading"[10] prior to the 1971 Paris Conference, it has been recognized that Tunisia played a most important part.[11]

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[7] Claude Masouyé, "The Beroe Convention Since Stockholm (1967)," RIDA 1984, No. 119, pp. 3 *et seq.*, particularly p. 29.

[8] Cf. on this subject, Claude Joubert, "The Berne Convention off Balance or: Abuse of the Right of Reservation," RIDA, October 1970, p. 33.

[9] Cf. in particular, Henri Desbois, "The Evolution of Copyright in International Relations Since the Brussels Conference (1948)," RIDA, January 1974, p. 293.

[10] Roger Fernay, "Paris 1971 or the Adventures of a Package Deal," RIDA, October 1971, pp. 3 *et seq.*, particularly p. 5.

[11] Cf. Roger Fernay, *op. cit.*, p. 7; André Françon, *loc. cit.*, p. 51.

It was Tunisia that first sought to reopen discussions on the question of the developing countries after the failure of the Stockholm Conference, and it was its action, in particular, that enabled the points of view to be brought closer together.

Whereas the standpoints of the two groups of partners appeared irreconcilable at the end of the Stockholm Conference and the discussions had practically reached a dead end, a solution was proposed by two countries, Tunisia and France, under which the effects of the sanction contained in paragraph (a) of the Appendix Declaration relating to Article XVII of the Universal Copyright Convention would be suspended in respect of the developing countries that could thus provisionally make do with a more appropriate instrument. In this way, the level of protection under the Berne Convention was maintained, since the Protocol no longer served any purpose.

However, this suspension of the safeguard clause for the benefit of the developing countries, enabling them to leave the Berne Union without at the same time losing the benefit of the Universal Copyright Convention, led a number of the developed countries, particularly the United States of America, that where members of the Universal Convention, to fear that they would be faced with irresistible pressure from the developing countries in respect of their own intellectual production.

For their part, the developing countries, still disappointed at the failure of the Stockholm Protocol, held that the Universal Copyright Convention, although having a lower level of protection for authors' rights than the Berne Convention, did not for all that meet their requirements in as far as the question of translations was concerned.

It therefore became essential to envisage a revision of the Universal Copyright Convention in order to strengthen the protection of authors' rights whilst including rules enabling those rights to be adjusted in favor of the developing countries, without material reciprocity.

However, the developing countries did not take kindly to the obligation to leave the Berne Union in order to enjoy special treatment. They felt it a humiliation to have to break with the Union system in order to obtain measures adapted to their possibilities.[12]

This explains why it was proposed that provisions in favor of the developing countries be inserted in the Berne Convention.

Thus, the two Conventions were both subjected to a revision procedure at the same time.

Nevertheless, the question of what was to replace the Stockholm Protocol remained unanswered, since some felt that it needed to be restricted and others that it had to be extended. Unanimity could not be achieved on the limits of the concessions that were to be made.

Some of the developing countries, such as Tunisia, were more aware than others of the need to somewhat moderate demands if the situation was to be resolved. Discussions were most arduous around two thorny questions: that of translation and that of reproduction.

Without going into the detail of the various concerns that were expressed,[13] it will suffice to recall that, after hard bargaining and thanks to the activity deployed by Tunisia throughout the preliminary working meetings and during the Conference itself,[14] agreement was achieved between the two groups of countries enabling a new Diplomatic Conference to be convened in Paris in 1971 to devise new rules for the protection of authors' rights at international level. Provisional arrangements for compulsory licenses were thus set up for the benefit of the developing countries party to the Berne Convention. The same applied to the developing countries party to the Universal Copyright Convention in respect of the provisions drawn up in Paris and contained in Articles V*bis*, V*ter* and V*quater*.

The aim of holding the two meetings in Paris was to harmonize the provisions that granted these facilities in each of the Conventions.

These texts achieved the ratifications that were necessary for their entry into force.

It must be admitted that the 1971 texts, that had ripened, had been reflected on, had emerged from negotiation and reciprocal concessions which had been described by that telling English term "package deal,"[15] avoided those excesses that had condemned the Stockholm Act to remain a dead letter.

Thus, thanks to the emergence at the international level of newly independent countries and thanks to the action they pursued, the international development of authors' rights progressed towards adaptation to their social, cultural and economic circumstances.

This constitutes a natural tendency and there is absolutely no reason to fear an outcome that would be fatal to the protection of authors' rights, since these countries are developing and their progress can but consolidate the protection of such rights.

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[12] Cf. Henri Desbois, "The Diplomatic Conference for the Revision of the Berne and Geneva Conventions," RIDA, April 1971, pp. 3 *et seq.*, particularly p. 9.

[13] Cf. on this matter, Roger Fernay, *op. et loc. cit.*; Henri Desbois, *op. et loc. cit.*

[14] Mr. Rafik Saïd, Head of the Tunisian delegation, took the chair of the Main Commission of the Universal Copyright Convention and was held to have "performed his duties outstandingly," Roger Fernay, *op. et loc. cit.*, p. 23.

[15] Cf. Roger Fernay, *op. et loc. cit.*

Indeed, that is what happened, for we shall see that the Stockholm and the Paris Conferences exerted a very pronounced influence on the national laws of developing countries.

PART II

The Influence of the Berne Convention on the Domestic Laws of the Developing Countries

Until the last two decades, the law of literary and artistic property had enjoyed a very limited, if not inexistent, following in the countries of the Third World.

The few non–developed countries to be found amongst the founder members of the Berne Convention were under foreign domination. Indeed, at that time, the very concept of developing country did not exist.

Likewise, at national level, the non–developed countries that possessed a copyright law had been given those texts in the image of the colonial power, but, generally, these statutes were of no effect in practice.[16]

The Law applicable in Tunisia was that of June 15, 1889, concerning literary and artistic property,[17] promulgated in the wake of the original Berne Convention. That Law was largely based on the fundamental principles of the Convention, particularly as regards the protection of the rights of foreign authors.

Following independence and their accession to international sovereignty, the developing countries were faced with a quite difficult situation as regards access to the means for cultural development, particularly works of the mind.

The rapid development of teaching and the increase in the number of children at school demanded greater supplies of cultural material, meaning that these countries were faced with new financial burdens.

In view of these needs, the tendency in the developing countries after accession to sovereignty was, logically, to set limits on all rights that impaired the development of society, in the interest of the national community. Thus, literary and artistic property rights could have led in that context to somewhat complicated problems in respect of the balance to be maintained between the interests of the authors and those of the national community.

That is where the Berne Convention played a predominant part in resolving the problem faced by the developing countries, that is to say reconciling their urgent need to enrich their cultural heritage by acceding in the least expensive possible way to the works of the mind of those countries that possessed them with the need to include effective protection for authors' rights in their domestic legislation.

Its effect became obvious as of the preparation for the Stockholm Revision Conference and, as we have seen, the developing countries supported that revision which was expected to resolve their preoccupations.

The reasons for what has been called the "failure" of the Conference have already been analyzed[18] and it would seem pointless to repeat them. As one author[19] wrote,

> ...like all that man does, the Stockholm Conference brings both satisfaction and disappointment in its wake.

One positive outcome of the Conference was to promote an awareness of the situation within the two groups of countries and to enable the developing countries to acquire a more precise and more realistic knowledge of their copyright problems, enabling them to understand those problems with more perspicacity and more skill.

The Conference had a particularly beneficial effect on the content and approach of the domestic laws in those countries. Indeed, the first tendency to prevail in those countries was to favor the users of works of the mind rather than the owners of the copyright in those works.

We are quite aware that this approach was reflected in the first African copyright law to be promulgated, that of Ghana in 1961. This country had also chosen to become a member of the Universal Copyright Convention.

It must be added that during the seven years throughout which the preparatory work for the Stockholm Conference was going on, the developing countries were notable for the legal vacuum that existed in the field of copyright.

No other developing country, apart from Tunisia whose new legislation[20] was in fact influenced by the work of the Conference, promulgated a copyright law.

It was only after this period and under the influence of the Stockholm Revision Conference (1967) and the Paris Revision Conference (1971)

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[16] Cf. along these lines, N'Déné N'Diaye, "The Influence of Copyright on Cultural Development in the Developing Countries," RIDA, October 1975, pp. 59 *et seq.*, particularly p. 65.

[17] *Journal officiel de Tunisie*, June 2, 1889, p. 185.

[18] Cf. particularly RIDA, special double issue, October 1967—January 1968, devoted to the Stockholm Diplomatic Conference.

[19] Marcel Boutet, "A Portrait," RIDA, *op. cit.*, p. 43.

[20] Law No. 66–12, of February 14, 1966 (repealing the previous Law of June 15, 1889), *Copyright*, 1967, pp. 23 to 27; cf. comments by Claude Joubert, RIDA 1966—L, p. 181; cf. also Nébila Mezghani, "Letter from Tunisia — Development of the Law on Literary and Artistic Property in Tunisia," *Copyright*, 1984, p. 265.

that the domestic copyright laws of those countries began to appear. It has been noted, for instance, that hetween 1967 and 1983, 40 countries adopted a copyright law, and 34 of those 34 developing countries.[21]

This was the case, in particular, of Malta (March 1967), Haiti (January 9, 1968), Lihya (March 30, 1968), Malaysia (August 1, 1969), Morocco (July 29, 1970), Nigeria (December 24, 1970), Algeria (April 3, 1973), Senegal (December 4, 1973), Brazil (Decemher 14, 1973), Bangladesh (July 25, 1974), Kenya (May 9, 1975), Côte d'Ivoire (July 28, 1978).

All those countries adopted national laws that may be held to satisfy the essential requirements of the Berne Convention. Most of those laws afford protection to authors' rights that is altogether equal to that afforded by the developed countries.

It should also be pointed out that the Model Law on Copyright for the use of African countries[22] drawn up and adopted by the Committee of African Experts convened in Geneva from November 30 to Decemher 4, 1964, hy the Director–General of Unesco and the Director of BIRPI, constituted a useful tool for the African States in drafting provisions with a view to the effective protection of authors' rights.

Since the Stockholm Conference, the developing countries have understood the importance of the part played hy copyright in promoting culture and the development process. Indeed, in those countries, enormous progress has been made in the field of literary and artistic production and of the setting–up of hodies to defend the moral and economic rights of authors, which proves that these States have gained awareness of the need to strengthen protection for the interests of creators.

While leaving the Union countries a certain amount of freedom, the Berne Convention has laid down the bases of legal protection for creators.

Its provisions have generally been incorporated in the majority of laws of the developing countries.

The works that are protected are mostly those set out in Article 2 of the Berne Convention. They are protected whatever the mode or form of expression, their merits or their purpose, without any formality.

It should be pointed out that certain types of work enjoy a privileged position in those countries in view of their importance within the national cultural heritage. This applies to works of folklore in respect of which protection raises a number of problems in view of the very concept of folklore and its inherent nature.

Although the Stockholm Revision did not explicitly refer to such works, it nevertheless opened up the way for the developing countries to protect folklore hy giving all countries party to the Convention the faculty of protecting unpublished works where the identity of the author was unknown hut where there was every ground to presume that he was a national of the country and at the same time requiring the countries to designate the competent authority entitled to protect and enforce the author's rights in the countries of the Union (Article 15(4)).

Suhsequently, a number of studies were undertaken at international level in the endeavor to estahlish an international instrument for the protection of works of folklore, which would act in favor of their promotion and the safeguard of their integrity.

It was to this end that a Committee of Experts met in Tunis from July 11 to 15, 1977.[23]

The outcome of that meeting was not spectacular, as the result of the problems encountered in this field. Nevertheless, Model Provisions for National Laws on the Protection of Expressions of Folklore were suhsequently drawn up hy a Committee of Governmental Experts.[24]

In the field of copyright in general, the developing countries therefore sought to protect the interests of the authors, whilst at the same time providing for the general interests of the community, since the needs of the latter were becoming more or less pressing, depending on the country. In a developing country, the cultural heritage is generally sparse (if one excepts folklore) and priorities in this field called for provisions that were less protective than in a developed country to ensure a wider circulation of intellectual assets.

Despite this situation, the majority of developing countries that have adopted copyright legislation have afforded authors the essential prerogatives, both moral and economic.

It should be noted, however, that the moral prerogatives that have been afforded are basically the right to be named as the author and the right to respect. The right of withdrawal or the right to reconsider have not generally been incorporated in most of the laws of those countries. This standpoint is justified hy the fact that the developing countries are logically seeking to enrich their cultural heritage and that to afford such prerogatives would be to achieve an aim running counter to that objective.

Indeed, this solution follows the general line set out by Article 6[bis] of the Berne Convention.

Likewise, the term of protection afforded to authors hy these countries corresponds to that laid down in Article 7 of the same Convention.

[21] Cf. Claude Masouyé, *loc. cit.*
[22] Cf. *Copyright*, 1965, p. 31 *et seq.*
[23] Cf. André Françon, *loc. cit.*
[24] Cf. *Copyright*, 1982, p. 278.

However, whilst maintaining minimum protection for the author, these countries have also laid down restrictions on the author's rights in order to promote the possihilities for accession to culture.

These restrictions have mostly been inspired by the Berne Convention or at least hy certain of the Revision Conferences. They relate to quotations and horrowings, to the status of official texts and to oral works, to compulsory licensing and to the assimilation of audiovisual works to cinematographic works.

The restrictions on the author's exclusive rights of reproduction and of puhlic performance have been provided for in most of the developing countries, taking into account:

— the cultural and educational aims pursued, or
— the private and non–lucrative nature of the use made of the work, or
— the specific capacity of the user, such as a hroadcasting organization.

Conclusion

At the end of this overview that I have attempted in respect of the interaction between the Berne Convention and the developing countries in the evolution of copyright, it is worthwhile, when celebrating the centenary of the earliest multilateral convention on literary and artistic property, to reflect on the prospects of this Convention for the future.

Time has proved that we can have confidence in the development of relations between the two groups of Union countries, whose viewpoints have come closer together and for whom the discussions at Stockholm have hacked out a difficult, but sure and effective, path towards understanding.

Does this mean that all the prohlems have heen settled? It would be hazardous to make such a statement, since the years that pass bring with them other prohlems, particularly those deriving from the development of advanced techniques for disseminating works of the mind.

It has been possihle until now to adapt the rules of copyright protection contained in the Berne Convention to the evolution of progress made in various fields, such as the emergence of records, of magnetic tapes, of cinematographic techniques and of television.

However, further inventions have appeared and one may well ask whether the oldest of the multilateral copyright conventions still provides a legal framework appropriate to the protection of authors' rights.

For instance, as regards the matter of audio and video reproduction of works of the mind for personal use, a problem has arisen following the availability on the market of increasingly sophisticated equipment for audiovisual recording and reproduction.[25] As a result, the very concept of private and personal use has undergone such changes that there is now talk of "domestic piracy."

The prohlem is one of reconciling the interests of the author with the interests of the community. The problem is therefore always the same. However, the main cause is different, since it arises from the speed with which the means of using works is evolving.

The aim of any updating of the Berne Convention is no longer to adjust the rules contained in it to the needs of the developing countries, hut to adopt legal provisions suited to contemporary technology.

The evaluation of this phenomenon differs, of course, from one country to another depending on its economic and political institutions.

This aspect of diversification between the countries should be borne in mind when assessing the international provisions contained in the Berne Convention, particularly the three paragraphs of Article 9 as incorporated in the 1971 Paris Act in respect of sound and visual recordings for personal use.

However that may be, it has been admitted that the provisions laid down by that Article are today sufficiently effective to avoid the author's right of reproduction from being emptied from its substance.[26]

Likewise, with the arrival of the computer and the rapid development of the software industry, the prohlem of protecting that software under copyright has raised the difficult question of how such protection is to he constituted.

Without making a detailed analysis, it suffices to note that, here again, studies undertaken in this field have clearly proved that computer programs constitute works protected under the Berne Convention.[27]

Finally, in the field of the audiovisual media, it has been asked whether the use of space satellites to transmit television programs to the puhlic is suhject to copyright.

The Brussels Convention, of May 21, 1974, Relating to the Distribution of Programme–Carrying

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[25] Cf. on this matter, Taddeo Collova, "Sonic and Visual Reproduction for Personal Use," RIDA, January 1979, p. 77.

[26] Cf. Taddeo Collova, *op. et loc. cit.*; Report of the Working Group on the Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs, *Copyright*, 1977, p. 87.

[27] Cf. in particular, Michael S. Keplinger, "Authorship in the Information Age. Protection for Computer Programs Under the Berne and Universal Copyright Conventions," *Copyright*, 1985, p. 119.

Signals Transmitted hy Satellite is only of a limited scope. It does not govern authors' rights.[28]

Furthermore, no provision in the Berne Convention explicitly refers to this operation. Nevertheless, it has been admitted that the Convention contains a number of relevant principles that are capahle of adaptation to these technical innovations. Thus, a widely held view is that, despite the limits of the solution provided in this field hy the Convention, help in the search for protection of authors' rights can be found in Article 11bis(1)(i).[29]

Consequently, despite its imperfections and its traditionalist nature in some ways, the Berne Convention remains a hasic element of the international law of literary and artistic property.

While recognizing that the solutions contrihuted to the protection of authors' rights hy this Convention suffer some limitations, particularly in respect of certain services provided hy space satellites, it may nevertheless be claimed that the Berne Convention still represents "the Charter on the fundamental rights of authors."[30]

Having withstood the test of time, it has never failed to provide a standing response to the unending challenges arising from the social, economic and technical evolution in the environment of copyright.

Its action in the field of literary and artistic property remains unswerving, thanks in particular to the flexihility of its text that has enabled it to be adapted to the great changes that have taken place in society and to the technical progress that has marked our times.

(WIPO translation)

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[28] Cf. Eugen Ulmer, "Protection of Authors in Relation to the Transmission Via Satellite of Broadcast Programmes," RIDA 1977, No. LXXXXIII, p. 5; André Kerever, "The Ambiguities of the Brussels Convention of May 21, 1974," RIDA 1977, No. LXXXXI, p. 57.

[29] Cf. Robert Dittrich, "On the Interpretation of Article 11bis(1) and (2) of the Berne Convention," *Copyright*, 1982, p. 294; André Kerever, "Copyright and Space Satellites," RIDA 1984, No. 121, p. 27; Berne Union — Group of Experts on the Copyright Aspects of Direct Broadcasting by Satellite, *Copyright*, 1985, p. 180; Philippe Gaudrat, "Protection of the Author in Relation to a Retransmission by Satellite of his Work," RIDA 1980, No. 104, p. 3.

[30] The term is used by Franca Klaver, "Revision of the Berne Convention," RIDA 1967, LII, pp. 5 *et seq.* (p. 45).

Calendar of Meetings

Commemoration of the Centenary of the Berne Convention

The official celebration of the Centenary of the Berne Convention will be held in Berne on September 11, 1986, at the invitation of the Swiss Government. The Assembly of the Berne Union will hold an extraordinary session on that occasion.

So far we have received information on the following other commemorative events by international non-governmental organizations and national organizations:

June 20 and 21 (Zurich) — Commemoration of the Centenary by the Swiss Society for Authors' Rights in Musical Works (SUISA)

September 8 to 12 (Berne) — Congress of the International Literary and Artistic Association (ALAI) in the framework of which the Centenary will be celebrated

September 25 and 26 (Mexico City) — Commemoration of the Centenary in the framework of the Copyright Workshop for Latin American Countries organized by WIPO and the Mexican Institute of Copyright

October 5 to 11 (Madrid) — Congress of the International Confederation of Societies of Authors and Composers (CISAC) in the framework of which the Centenary will be celebrated

November 18 to 21 (Cracow) — Commemoration of the Centenary in the framework of a Seminar organized by the Jagiellonian University

November 24 to 28 (New Delhi) — Commemoration of the Centenary in the framework of the Regional Workshop on Copyright and Neighboring Rights organized by WIPO and the Government of India

WIPO Meetings

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

1986

May 22 to June 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

June 2 to 6 (Paris) — Committee of Governmental Experts on Audiovisual Works and Phonograms (convened jointly with Unesco)

June 4 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries

June 9 to 13 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

June 23 to 27 (Geneva) — Committee of Experts on Intellectual Property in Respect of Integrated Circuits

July 2 to 4 (Geneva) — Working Group on Links Between the Madrid Agreement and the Proposed (European) Community Trade Mark

September 1 to 5 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)

September 8 to 10 (Geneva) — WIPO Patent and Trademark Information Fair

September 8 to 12 (Geneva) — Governing Bodies (WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly of the Berne Union)

October 13 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information

November 24 to December 5 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

December 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

UPOV Meetings

1986

Jnne 3 to 6 (Dublin) — Technical Working Party for Agricultural Crops, and Subgroup
July 15 to 18 (Wageningen) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroup
September 15 to 19 (Wädenswil) — Technical Working Party for Fruit Corps, and Subgroup
November 18 and 19 (Geneva) — Administrative and Legal Committee
November 20 and 21 (Geneva) — Technical Committee
December 1 (Paris) — Consnltative Committee
December 2 and 3 (Paris) — Council

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

Non-Governmental Organizations

1986

September 8 to 12 (Berne) — International Literary and Artistic Association (ALAI) — Congress
October 5 to 11 (Madrid) — International Confederation of Societies of Authors and Composers (CISAC) — Congress
October 20 to 23 (Vienna) — International Federation of Musicians (FIM) — Congress