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WIPO 1993

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COPYRIGHT AND NEIGHBORING RIGHTS LAWS AND TREATIES

(INSERT)

Editor's Note

UNITED STATES OF AMERICA

United States Code, Title 17—Copyrights (Copyright Law of 1976, as last amended by the Audio Home Recording Act of 1992 (Public Law 102-563 of October 28, 1992)) (Chapters 1 and 2) (This text includes and replaces those previously published in Copyright, 1977, pp. 151 to 186, 198 to 224 and 336; 1981, p. 247; 1982, pp. 209 and 210; 1985, pp. 111 and 112, and in the Copyright and Neighboring Rights Laws and Treaties insert, under the code numbers 1-01 to 8-01.)

Text 1-01

Notifications Concerning Treaties Administered by WIPO in the Field of Copyright

Rome Convention

Accessions

NETHERLANDS

The Government of the Netherlands deposited, on July 7, 1993, its instrument of accession, for the Kingdom in Europe, to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) done at Rome on October 26, 1961.

The instrument of accession contains the following reservations, provided for in Article 16, paragraph 1(a)(iii) and (iv), of the Convention:

– the Kingdom of the Netherlands will not apply Article 12 to phonograms the producer of which is not a national of another Contracting State:

– as regards phonograms the producer of which is a national of another Contracting State, it will limit the protection provided for by Article 12 to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed by a national of the Kingdom of the Netherlands.

In accordance with Article 25.2, the Convention entered into force, with respect to the Netherlands, on October 7, 1993.

NIGERIA

The Government of Nigeria deposited, on July 29, 1993, its instrument of accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) done at Rome on October 26, 1961.

The instrument of accession contains the following declarations:

1. With regard to Article 5, paragraph 3, the Federal Republic of Nigeria will not apply the criteria of publication under Article 5, paragraph 1(c).

2. With regard to Article 6, paragraph 2, the Federal Republic of Nigeria will protect broadcasts only if the headquarters of the broadcasting organization is situated in another Contracting State and if the broadcast is transmitted from a transmitter situated in the same Contracting State.

3. With regard to Article 16, paragraph 1(a):
(i) the provisions of Article 12 will not be applied in case of communication to the public of phonograms (a) at any premises where persons reside or sleep, as part of the amenities provided

exclusively or mainly for residents or inmates therein unless a special charge is made for admission to the part of the premises where the phonogram is to be heard or (b) as part of the activities of, or for the benefit of a club, society or other organization which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare, unless a charge is made for admission to the part of the premises where the phonogram is to be heard and any of the proceeds of the charge are applied otherwise than for the purposes of the organization;

(ii) the provisions of Article 12 will not apply as regards phonograms the producer of which is not a national of another Contracting State; and

(iii) as regards phonograms the producer of which is a national of another Contracting State, the Federal Republic of Nigeria will limit the protection provided for in Article 12 to the extent to which, and to the term for which, that Contracting State grants protection to phonograms first fixed by nationals of the Federal Republic of Nigeria.

In accordance with Article 25.2, the Convention entered into force, with respect to Nigeria, on October 29, 1993.

SWITZERLAND

The Government of Switzerland deposited, on June 24, 1993, its instrument of accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) done at Rome on October 26, 1961.

The instrument of accession contains the following reservations:

Ad Article 5

The Swiss Government declares, in accordance with Article 5, paragraph 3, of the Convention, that it rejects the criterion of first fixation. It will therefore apply the criterion of first publication.

Ad Article 12

In accordance with the provisions of Article 16, paragraph 1, of the Convention, the Swiss Government declares that it will not apply the provisions of Article 12 as regards phonograms the producer of which is not a national of another Contracting State.

The Swiss Government also declares, as regards phonograms the producer of which is a national of another Contracting State, that it will limit the protection provided for by Article 12 to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed by a Swiss national, in accordance with the provisions of Article 16, paragraph 1(a)(iv), of the Convention.

In accordance with Article 25.2, the Convention entered into force, with respect to Switzerland, on September 24, 1993.

Phonograms Convention

Accession

JAMAICA

The Government of Jamaica deposited, on October 7, 1993, its instrument of accession to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms of October 29, 1971.

The said Convention will enter into force, with respect to Jamaica, on January 11, 1994.

Phonograms Notification No. 55, of October 11, 1993.

Satellites Convention

Ratification

SWITZERLAND

The Government of Switzerland deposited, on June 24, 1993, its instrument of ratification of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, adopted at Brussels on May 21, 1974.

The said Convention entered into force, for Switzerland, three months after the deposit of its instrument of ratification, that is on September 24, 1993.

Succession**CROATIA**

The Government of Croatia deposited, on July 26, 1993, its notification of succession to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite,

adopted at Brussels on May 21, 1974, with effect from October 8, 1991, the date on which Croatia assumed responsibility for its international relations.

Nairobi Treaty**Ratification****MOROCCO**

The Government of Morocco deposited, on October 11, 1993, its instrument of ratification of the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty will enter into force, with respect to Morocco, on November 11, 1993.

Nairobi Notification No. 39, of October 13, 1993.

Normative Activities of WIPO in the Field of Copyright

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention, 1961)

Intergovernmental Committee

Fourteenth Ordinary Session

(Geneva, October 11 to 13, 1993)

REPORT

adopted by the Committee

I. Introduction

1. The Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) (hereafter referred to as "the Committee"), convened in accordance with Article 32.6 of the Convention and Rule 10 of the Rules of Procedure of the Committee, held its fourteenth ordinary session at the headquarters of the World Intellectual Property Organization (WIPO) in Geneva, from October 11 to 13, 1993.

2. The following eight member States of the Committee were represented: Chile, Colombia, Finland, France, Germany, Mexico, United Kingdom, Uruguay. Seven States party to the Convention but not members of the Committee (Australia, Czech Republic, Japan, Panama, Spain, Sweden, Switzerland) and nine States not party to the Convention (Belarus, Libya, Papua New Guinea, Poland, Portugal, Republic of Korea, Romania, Tunisia, Venezuela) were represented as observers.

3. A representative from one international inter-governmental organization (League of Arab States (LAS)) and representatives of the following nine international non-governmental organizations participated in observer capacity: European Broadcasting Union (EBU), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International

Confederation of Societies of Authors and Composers (CISAC), International Federation of Actors (FIA), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Federation of the Phonographic Industry (IFPI), International Literary and Artistic Association (ALAI), International Music Council (IMC).

4. The list of participants is attached to this report.*

II. Opening of the Session

5. Mr. Hannu Wager (Finland), elected as Chairman of the Committee at its thirteenth ordinary session in 1991, opened the meeting. On behalf of the Director General of WIPO, the representative of the International Bureau welcomed the participants. The representatives of the International Labour Office (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) also welcomed the participants on behalf of their respective Directors General.

III. Election of a Chairman and two Vice-Chairmen

6. Following a proposal made by the Delegation of France and seconded by the Delegation of Mexico, Mr. Roger Knights (United Kingdom) was unanimously elected as Chairman and Mr. Pablo Romero (Chile) and Mr. Hannu Wager (Finland)

* The list of participants is not reproduced here, but may be obtained from the International Bureau.

were unanimously elected as Vice-Chairmen of the Committee.

IV. Adoption of the Agenda

7. The provisional agenda (document ILO/UNESCO/WIPO/ICR.14/1/Prov.) was unanimously adopted by the Committee.

V. Information on the Status of Adherence to the Rome Convention

8. Discussions were based on document ILO/UNESCO/WIPO/ICR.14/2.

9. The representative of the Secretariat, introducing the document, indicated that, since its preparation, Bolivia and Nigeria had adhered to the Convention, and the status of adherence of the Czech Republic had been clarified. The latter country had deposited an instrument declaring the continuation of the applicability of the Convention in its territory as from January 1, 1993.

10. The Committee took note of the information contained in the above-mentioned document.

VI. Information Concerning Which States Eligible for Adherence to the Rome Convention Have Not Yet Adhered to it

11. Discussions were based on document ILO/UNESCO/WIPO/ICR.14/3.

12. The representative of the Secretariat, introducing the document, indicated that, since its preparation, Namibia and Jamaica had deposited their instruments of accession to the Berne Convention, bringing the total number of member States of the Berne Union to 102.

13. The observer from EBU stated that the increase in the adherence to the Rome Convention showed that it was still an important and relevant international instrument. She added that broadcasters should be included in any effort to increase the level of protection of neighboring rights at the international level.

14. The observer from ALAI said that the Rome Convention was an important international instrument, the more so given the expansion of the scope of its geographical application in recent years. He also expressed the view that any new international instrument should maintain the distinction be-

tween, on the one hand, authors' rights and, on the other, neighboring rights, as was the case in the Convention. The observer from CISAC supported this statement.

15. The observer from FIM declared that his Federation agreed with ALAI that the distinction between authors' rights and performers' rights was a cardinal principle of intellectual property protection. However, this distinction should not be viewed as hierarchical, as performers' rights were fully justified for themselves by justice and equity, not as derogated from authors' rights.

16. The Committee took note of the information contained in the above-mentioned document.

VII. Information on the Status of Adherence to the Phonograms Convention and to the Satellites Convention

17. Discussions were based on document ILO/UNESCO/WIPO/ICR.14/4.

18. The representative of the Secretariat, introducing the document, indicated that, since its preparation, Jamaica had adhered to the Phonograms Convention, bringing the total number of parties to 49. During the same period, Armenia and Croatia had, respectively, adhered to, and confirmed the continued application of, the Satellites Convention, bringing the total number of parties to 18.

19. The Committee took note of the information contained in the above-mentioned document.

VIII. Report on the Activities of the Sponsoring Organizations to Provide Assistance and Training for Developing Countries with a View to Promoting the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

20. The representative of the International Bureau of WIPO introduced the report on the development cooperation activities of WIPO in 1991 and 1992 in the field of neighboring rights (document ILO/UNESCO/WIPO/ICR.14/5), adding that the WIPO/Sweden course organized in Stockholm in August 1992 had inadvertently been omitted from the report. He stressed that, for most members of the Committee and observers taking part in the meeting, the report contained little new information, given that a similar report had been presented recently to the WIPO Permanent Committee on Copyright and Neighboring Rights held on

September 7, 8 and 10, 1993, and to the WIPO Governing Bodies, which had held their 24th series of meetings from September 20 to 29, 1993.

21. The Delegation of Sweden stated that a course similar to the 1992 WIPO/Sweden training course had also been held in August 1993, and announced that its Government was planning to organize a similar event in August 1994. It congratulated WIPO for organizing events that dealt appropriately with the four pillars of international intellectual property protection, namely: improvement of national legislation; promoting accession to international conventions; ensuring proper implementation of norms at the national level, including enforcement; and raising the level of awareness of the importance of intellectual property. It stressed the very positive results of specialized, high-level training for the judiciary and of events like the Conference of Ministers in Charge of Copyright in West Africa on the Eradication of the Piracy of Musical, Literary and Artistic Works, organized jointly by WIPO and the Government of Senegal on March 4 and 5, 1992, which had resulted, *inter alia*, in the "Dakar Appeal," a ministerial declaration urging participating governments to take steps to eradicate piracy. Also, the efforts of WIPO in the field of collective administration were crucial to the good development of copyright in developing countries.

22. The Delegation of Poland underscored the importance of the dissemination of information on intellectual property rights in Central and Eastern Europe to facilitate accession to the Rome Convention and the efficient implementation of relevant norms, including the fight against piracy. In this context, the creation of a multilingual glossary of terms in the field of neighboring rights would be helpful for national legislators.

23. The representative of Unesco, introducing the report on the activities of his organization in the field of copyright and neighboring rights (document ILO/UNESCO/WIPO/ICR.14/5-II), emphasized the importance of the introduction of teaching of this matter, particularly at the university level. For this purpose, Unesco had recently published a teaching manual. Currently available in Spanish, it would be available also in French and English in 1994. Unfortunately, due to financial constraints, two meetings on the development of the teaching of copyright and neighboring rights had to be cancelled. At present, Unesco was examining the possibility of integrating this program into its UNITWIN program which was financed from extra-budgetary funds. Finally, a Pan-African seminar on the promotion of the application of

Unesco's recommendation concerning the status of the artist would be organized in Brazzaville (Congo) on December 1 and 2, 1993.

24. Answering a question from the observer from CISAC, the representative of Unesco added that owing to financial constraints, it had not yet been possible to follow up on the creation of a college of experts composed of specialists on copyright and neighboring rights before which member States could appeal in case of legal disputes, as recommended by participants in the Reflection Meeting on the Role and Challenges of Copyright on the Eve of the Twenty-First Century (Paris, November 16 to 18, 1992) referred to in paragraph 12 of the report.

25. The Delegation of France felt that, to efficiently fight piracy, practical and technical information for those working in the field (e.g., customs authorities) was very important. It also said that the Rome Convention remained a relevant international agreement, as was demonstrated by the recent decision of the Council of the European Communities to promote adherence to that Convention and to the Berne Convention. As an additional point, it wondered how one could distinguish "scientific works" from literary creations, as mentioned in the Unesco report in the part dealing with the above-mentioned Reflection Meeting.

26. The representative of Unesco said that further work on the latter point would probably be postponed until the 1996-97 biennium.

27. The observer from BIEM disagreed with paragraph 5 of the Unesco report in which it was stated that, through technological progress, the frontiers between authors and performers and between creators and users would progressively disappear. In his view, new technologies would allow the merger of the traditional categories of works.

28. The observer from ALAI expressed support for the intervention of BIEM, and, with reference to the statement made by the Delegation of France, added that the expression "scientific creations" was unclear in a copyright context, as it could refer both to traditional literary works and to scientific discoveries not protectable, *per se*, under copyright law. In any event, it would not be possible to state that copyright and neighboring rights had a negative impact on the free circulation of information on scientific research.

29. The representative of the ILO introduced the report on the activities of her organization in the field of neighboring rights (document ILO/UNESCO/

WIPO/ICR.14/5-III). She recalled that the social and economic circumstances of performers were often precarious. Technological developments, which would facilitate the reuse of recorded performances, would pose a threat to live employment possibilities. With a view to finding a solution to those problems, the ILO had convened in May 1992 a Tripartite Meeting on Conditions of Employment and Work of Performers, at the end of which a broad consensus was reached among participants. The conclusions adopted by the meeting included a number of recommendations, which were reproduced in the annex to the ILO report. She drew the attention of the Committee members and observers to paragraphs 15 to 19, dealing with performers' rights as regards the uses of their performances, and paragraph 26, inviting the ILO to continue to concern itself with the interests of performers as workers, both within the context of its own activities and in other fora, such as this Committee. The ILO had also recently published two reports, one on the status of the artist and the other on secondary remuneration, which had been well received by interested circles. It had also participated in 1992 in a symposium co-sponsored by the Commission of the European Communities and the Government of Hungary in Budapest, dealing, *inter alia*, with the promotion of legislation on neighboring rights and the fight against piracy in Central and Eastern Europe. Finally, the ILO had advised concerned circles in Mozambique, Nepal, Poland and Zambia on legislation regarding trade unions for performers, including free-lance performers.

30. The Delegation of France congratulated the ILO, adding that work on the social protection of performers was essential.

31. The Delegation of Australia, which was participating for the first time in the Committee as a party to the Convention, noted with great interest the activities of the sponsoring organizations and invited them to continue their efforts in the Asia-Pacific region. Its Government, which had been involved recently in a number of bilateral meetings and consultations in that region, would support any such initiative to the fullest extent possible.

32. The Committee took note of the information contained in the three above-mentioned reports.

IX. Information and Comments Received by the Secretariat from States Party, or Eligible to Become Party, to the Rome Convention Regarding the Implementation of, or Adherence to, the Convention, Respectively

33. The discussions were based on documents ILO/UNESCO/WIPO/ICR.14/6 and 6 Add. In in-

troducing the document, the representative of the Secretariat mentioned that the Secretariat had recently received a reply from Guatemala to the circular letter referred to in the documents. Due to its late arrival, the reply was not included in the documents. Moreover, it contained no information concerning the protection of the rights of the beneficiaries of the Rome Convention. Copies of the reply could be made available to any interested delegation or observer upon request.

34. The Delegation of Sweden made the following comments: (1) the information value of the replies received was very high and it was useful to countries considering the possibility of legislating in the field of neighboring rights to be aware of what other countries were doing; (2) the advice provided to national governments by WIPO, in the form of model legislation and comments on draft legislation, was extremely useful in the context of implementation of the Rome Convention and for providing a uniformly high level of protection internationally; (3) the traditional close coordination among the five Nordic countries (Sweden, Norway, Denmark, Finland, Iceland) was reflected in the development and harmonization of neighboring rights legislation, particularly in respect of the implementation of the directives of the European Communities on rental and lending, and on satellite broadcasting and cable distribution; (4) legislation would soon be introduced in the Swedish Parliament to increase sanctions for infringements of copyright and neighboring rights, on the one hand, and to establish sanctions for the manufacture, importation and sale of illicit decoders, on the other; and moreover, Sweden was taking an active role in the work within the Council of Europe to develop a set of measures to fight piracy of sound recordings and audiovisual works.

35. The Delegation of Switzerland noted that a new law on copyright and neighboring rights had become effective in its country on July 1, 1993, and this had enabled its country to become party to the Rome Convention, the Phonograms Convention and the Satellites Convention in September 1993. It noted that the new law exceeded the level of protection for neighboring rights beneficiaries under the Rome Convention, mentioning in particular the rights of producers of videograms, a term of protection of neighboring rights of 50 years, and a right to remuneration of producers of phonograms and performers in respect of broadcasting and communication to the public of phonograms. The Delegation noted that reciprocity would be applied to nationals of other countries party to the Rome Convention in respect of such remuneration. Finally, it expressed the wish for greater acceptance and implementation

of the international copyright and neighboring rights conventions.

36. The Delegation of Chile noted that its country had been party to the Rome Convention since 1974, but that the protection of the beneficiaries of neighboring rights, in full conformity with the requirements of the Convention, had been part of its domestic law since 1970. It noted that legislation had been enacted in 1992, which improved protection in the following respects: (1) the increase of the term of protection from 30 to 50 years; (2) substitution of an organization constituted and administered by the State by collective administration societies constituted by owners of rights; (3) broadening of the rights of producers of phonograms, including rights of reproduction, rental and lending, and communication to the public; (4) increase of the sanctions for infringement of rights to provide for substantial fines and imprisonment, including mandatory imprisonment for infringements on a commercial scale; and (5) the recognition of national treatment in respect of remuneration for reproduction or communication to the public of phonograms.

37. The Delegation of Mexico thanked the Secretariat for the answer to the query that its Government had submitted concerning the meaning of the expression "single equitable remuneration" contained in Article 12 of the Rome Convention. However, having regard to the explanation given in document ILO/UNESCO/WIPO/ICR.14/6, it considered that the query had not been fully understood; its Government would ask in writing, therefore, for a further clarification.

38. The Delegation of Finland noted that the legislation of its country and many other countries party to the Convention provided a higher level of protection than that provided for under the Rome Convention. It took the view that it was desirable to improve the protection of neighboring rights at the international level, since such protection provided for under national legislation was more advanced. It noted that there was a need to look for such solutions that could be accepted by as many countries as possible.

39. The Delegation of France stated that it was necessary to promote further accessions to the conventions in the field of neighboring rights. It noted that many national laws provided for a level of protection for the beneficiaries of neighboring rights which exceeded the level established under the Rome Convention. It also referred to the harmonization initiatives in this field being carried out within the European Communities.

40. The Delegation of the United Kingdom noted that its country had been party to the Rome Convention since 1964, and that improvements in the protection of neighboring rights had been effected in legislation which became effective in 1988. It noted that further legislative changes would soon take place, in order to implement recent directives of the European Communities on rental and lending and on satellite broadcasting and cable distribution, respectively. It stated that such legislation would provide performers with rights in respect of rental of fixations of their performances, a right to remuneration for the broadcasting and communication to the public of sound recordings, and an exclusive right in respect of the distribution of fixations of their performances. The Delegation noted that the directive of the European Communities on satellite broadcasting and cable distribution required application of the law of the country of emission of satellite programs with some safeguards, which was already the substance of the law of its country on this point, even though certain drafting changes would be necessary. It also noted that collective administration would become mandatory with regard to the rights of certain beneficiaries in respect of cable retransmissions. Finally, the Delegation observed that a third directive of the European Communities, not yet final but on which a general political agreement had been reached, would provide for a 50-year term of protection throughout the Community for all beneficiaries under the Rome Convention; however, this term of protection already applied in the United Kingdom.

41. The observer from ALAI referred to the comments of several delegations concerning the fact that their national legislation on the protection of neighboring rights exceeded the level established under the Rome Convention, and that, under some such legislation, producers of phonograms were provided the exclusive right to authorize broadcasting or communication to the public of their phonograms. The observer took the view that the recognition of such an exclusive right was controversial, even if limited to broadcasting or communication to the public by digital means, because it might upset the balance between authors' rights and neighboring rights.

42. The observer from FIA referred to the statement by the Delegation of Australia concerning its recent accession to the Rome Convention, and said that he greatly regretted that Australia had acceded subject to the reservation that it would not apply Article 12 of the Convention. He stated that the right to an equitable remuneration for the broadcasting and communication to the public of sound

recordings was a pillar of the Rome Convention from the point of view of performers, and that Australia's reservation was particularly regrettable since the country was a major producer of sound recordings in the Asia-Pacific region. He expressed the hope that the possibility of removal of the reservation would be considered seriously. The Delegation of Australia, in answer to this comment, said that its Government would give sympathetic consideration to the concerns raised by FIA.

43. The observer from FIM referred to the information on implementation of the Rome Convention received from countries at the previous ordinary session of the Committee, and to the useful information received in respect of the present session of the Committee. He suggested that an analysis of such information be undertaken in order to identify the specific ways in which national laws provided levels of protection superior to that in the Rome Convention. He referred to the possibility that the 1974 Model Law for implementation of the Convention might be used as a benchmark in carrying out such an analysis, since its provisions were in many ways improvements on the Convention itself. He mentioned, in particular, the provisions for an equal share of remuneration, as between producers of phonograms and performers, of the equitable remuneration under Article 12, and provisions concerning the inapplicability of certain presumptions contained in the Convention.

44. The observer from BIEM stated that exclusive rights for performers and producers of phonograms might upset the careful balance between the interests of authors and the interests of the beneficiaries of neighboring rights established under Article 1 of the Rome Convention, the so-called "safeguard clause." He also referred with approval to the reply of Colombia concerning its legislation implementing the Convention, a provision of which contained a restatement of the preeminence of authors' rights over neighboring rights.

45. The observer from IFPI emphasized the high value and usefulness of information concerning recent national legislation implementing the Rome

Convention, which contained a higher level of protection than that in the Convention itself. He noted the trend towards providing exclusive rights for all three of the Convention's beneficiaries, in the particular context of digital technology. He was of the view that such a trend did not threaten the existing balance between authors' rights and neighboring rights, but, rather, indicated a practical approach to the need to safeguard the means of exercise of rights, including by collective administration, in a technological environment where rights of remuneration were inadequate and possibly obsolete.

46. The observer from CISAC stated that he was not opposed to the strengthening of the rights of beneficiaries under the Rome Convention, but that he did not agree that all such rights should be exclusive. He referred to Article 1 of the Rome Convention, and stated that WIPO, ILO and Unesco, which were the guardians of the Convention, should oppose new interpretations going against the spirit of that Article.

47. The observer from EBU referred to the forthcoming meeting, in November 1993, of the Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms. She stated that that meeting would provide a useful opportunity to examine whether it was justified or not to modify the relationship among the beneficiaries of the Rome Convention. There was no justification for altering the present system under Article 12 of the Rome Convention concerning broadcasting.

48. The Chairman stated that the upcoming November WIPO meeting was the appropriate forum for addressing the question of the balance between authors' rights and neighboring rights.

X. Adoption of the Report and Closing of the Session

49. The Committee unanimously adopted this report, and, after the usual statements of thanks, the Chairman declared the meeting closed.

**International Convention for the Protection of Performers,
Producers of Phonograms and Broadcasting Organizations
(Rome Convention, 1961)**

**Elction Meeting of Representatives of the Contracting States
to Elect the Members of the Intergovernmental Committee**

(Geneva, October 13, 1993)

REPORT OF THE TELLERS

1. In accordance with Rule 11 of the Rules of Procedure adopted by the Intergovernmental Committee at its fourth session (1973), the Directors General of the International Labour Office (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO) convened a meeting of all States party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations on October 13, 1993, to elect the members of the Intergovernmental Committee (hereinafter referred to as "the Committee") established by Article 32 of the Convention.

2. The representatives of the following 17 Contracting States were present and took part in the election: Argentina, Australia, Austria, Chile, Colombia, Czech Republic, Finland, France, Germany, Japan, Mexico, Panamá, Spain, Sweden, Switzerland, United Kingdom, Uruguay.

3. The meeting was chaired by Mr. Roger Knights (United Kingdom), the Chairman of the Committee.

4. The meeting adopted the Provisional Agenda (document ILO/UNESCO/WIPO/RCEM/1993/1). It had at its disposal the document ILO/UNESCO/

WIPO/RCEM/1993/2 containing a note on the election procedure drawn up by the Secretariat.

5. The election was conducted in accordance with Rule 31 of the Rules of Procedure.

6. A Nominations Committee was established consisting of Mr. Roger Knights (United Kingdom), Chairman of the Committee, Mr. Hannu Wager (Finland), Vice-Chairman of the Committee, and Mr. José Luis Ilabaca (Chile), elected by the meeting as substitute to Mr. Pablo Romero (Chile), Vice-Chairman of the Committee.

7. The Nominations Committee proposed the following 12 States for membership in the Intergovernmental Committee: Argentina (new member), Burkina Faso (new member), Chile, Colombia, Finland, France, Germany, Japan (new member), Mexico, Sweden (new member), United Kingdom, Uruguay.

8. The proposal of the Nominations Committee was adopted by the meeting unanimously.

9. The Chairman accordingly announced that the membership of the Intergovernmental Committee was: Argentina, Burkina Faso, Chile, Colombia, Finland, France, Germany, Japan, Mexico, Sweden, United Kingdom, Uruguay.

Hedva Sarfati
Chief
Salaried Employees and
Professional Workers Branch,
Sectoral Activities Department
ILO

Evgueni Guerassimov
Chief, a. i.
Copyright Section,
Book and Copyright Division

UNESCO

Mihály Ficsor
Assistant Director
General

WIPO

Activities of WIPO in the Field of Copyright Specially Designed for Developing Countries

Africa

Assistance With Training, Legislation and Modernization of Administration

United Republic of Tanzania. In August 1993,

the International Bureau prepared and sent to the government authorities, at their request, comments on the new draft copyright law.

Arab Countries

Training Courses, Seminars and Meetings

League of Arab States (LAS). In August 1993, two WIPO officials attended a meeting, in Geneva, on cooperation between the United Nations system of organizations and the LAS and its specialized organizations.

Assistance With Training, Legislation and Modernization of Administration

Algeria. In August 1993, the International Bureau prepared and sent to the government authorities, at their request, comments on the draft law on copyright and neighboring rights.

Asia and the Pacific

Assistance With Training, Legislation and Modernization of Administration

Malaysia. In August 1993, Dato' Hj. Shahrudin B. Hj. Haron, Secretary General of the Ministry of Domestic Trade and Consumer Affairs, had discussions with the Director General and other WIPO officials, in Geneva, on cooperation between Malaysia and WIPO, including possible advice from WIPO on the proposed revision of the Copyright Law and on the appropriate copyright collective administration system for Malaysia.

Thailand. In August 1993, Mr. Bajr Israsena Na Ayuthaya, Permanent Secretary, Ministry of Commerce, and four other government officials from the same Ministry visited WIPO and had discussions with the Director General and other WIPO officials on, *inter alia*, WIPO's advice on the proposed revision of the Copyright Law and the country's proposed accession to the 1971 Paris Act of the Berne Convention for the Protection of Literary and Artistic Works.

Also in August 1993, following the above-mentioned visit, the International Bureau prepared and sent to the government authorities, at their request, comments on the draft revised copyright law.

Philippines. In August 1993, the International Bureau prepared and sent to the government authorities, at their request, comments on the new Copyright Law and a draft law on copyright and neighboring rights.

Tonga. In August 1993, the International Bureau prepared and sent to the government authorities, at their request, recommendations regarding enforcement of copyright and the establishment of collective administration of copyright and neighboring rights in Tonga.

Latin America and the Caribbean

Training Courses, Seminars and Meetings

WIPO Ibero-American Regional Meeting of Copyright Registries (Santa Fe de Bogotá (Colombia)). From August 30 to September 3, 1993, the first Ibero-American Regional Meeting of Copyright Registries was jointly organized in Santa Fe de Bogotá by WIPO and the National Directorate of Copyright of Colombia. Seventeen participants from the following countries participated in the Meeting: Argentina, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela. Some 10 government officials from Colombia also attended the Meeting. Papers were presented by two WIPO consultants

from Portugal and Spain, two local speakers and two WIPO officials.

Assistance With Training, Legislation and Modernization of Administration

Bolivia. In August 1993, His Excellency Mr. Jorge Soruco, Ambassador, Permanent Representative of Bolivia to the United Nations Office and other international organizations in Geneva, deposited with the Director General Bolivia's instruments of accession to the Paris Convention for the Protection of Industrial Property and to the Berne Convention for the Protection of Literary and Artistic Works.

Development Cooperation in General

Training Courses, Seminars and Meetings

WIPO/Sweden Training Course on Copyright and Neighboring Rights (Stockholm). From August 9 to 20, 1993, WIPO organized a Training Course on Copyright and Neighboring Rights in Stockholm, in cooperation with the Government of Sweden and with the assistance of the Swedish International Development Authority (SIDA).

Eleven government officials from China, Ethiopia, the Gambia, Ghana, Kenya, Lesotho, Malawi, Nigeria, Uganda and the Southern African Development Community (SADC) attended the Course. Lectures were given by six government officials from Sweden and three WIPO officials. In the second week of the Course, practical visits were organized to various Swedish copyright organizations. At the end of the Course, the participants visited the headquarters of WIPO in Geneva.

Other Contacts of the International Bureau of WIPO with Governments and International Organizations in the Field of Copyright

National Contacts

Malta. In August 1993, the International Bureau prepared and sent to the national authorities, at their request, comments on the most recent version of the new draft copyright act.

United Nations

United Nations Consultative Committee on Administrative Questions (Financial and Budgetary Questions (CCAQ/FB)). In late August and early September 1993, a WIPO official attended the 78th session of this Committee, which took place in Montreal (Canada).

Intergovernmental Organizations

United Nations Educational, Scientific and Cultural Organization (UNESCO). In August 1993, an official of Unesco had discussions with WIPO officials in Geneva on matters of mutual interest in the field of copyright and neighboring rights.

Other Organizations

International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP). In August 1993, the 12th annual meeting of ATRIP took place at the Stockholm School of Economics in Stockholm. The meeting was attended by 66 participants from 40 countries. The travel and subsistence expenses of 12 professors from Brazil, China, Colombia, Egypt, India, Pakistan, Senegal, Sri Lanka, Sudan, Tunisia, Uganda and Zimbabwe were borne by WIPO. The topics of discussion included recent developments in intellectual property teaching and research in developing countries and in countries in transition to market economy, the teaching of intellectual property law in schools of business and engineering and the establishment of institutes on intellectual property teaching and research.

International Federation of Library Associations and Institutions (IFLA). In August 1993, a WIPO official attended the 59th General Conference of IFLA held in Barcelona (Spain).

Calendar of Meetings

WIPO Meetings

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

1993

November 29 to December 10 (Geneva)

Committee of Experts on the Harmonization of Laws for the Protection of Marks (Sixth Session) and Preparatory Meeting for the Diplomatic Conference for the Conclusion of a Treaty on the Harmonization of Laws for the Protection of Marks (Trademark Law Treaty)

The Committee of Experts is expected to complete the preparations for a possible Trademark Law Treaty. The Preparatory Meeting will decide which substantive documents should be submitted to the Diplomatic Conference and which States and organizations should be invited to the Diplomatic Conference. The Preparatory Meeting will also establish the draft Rules of Procedure of the Diplomatic Conference.

Invitations: States members of the Paris Union, the European Communities, the African Intellectual Property Organization, States members of WIPO not members of the Paris Union and certain organizations.

1994

January 31 to February 4 (Geneva)

Committee of Experts on the Development of the Hague Agreement (Fourth Session)

The Committee will continue to consider possibilities for revising the Hague Agreement Concerning the International Deposit of Industrial Designs, or adding to it a protocol, in order to introduce in the Hague system provisions intended to encourage States to adhere to the system and to facilitate the use of the system by applicants.

Invitations: States members of the Hague Union, and, as observers, States members of the Paris Union not members of the Hague Union and certain organizations.

February 21 to 25 (Geneva)

Committee of Experts on the Settlement of Intellectual Property Disputes Between States (Sixth Session) and Preparatory Meeting (Second Part) for the Diplomatic Conference for the Conclusion of a Treaty on the Settlement of Intellectual Property Disputes Between States

The Committee of Experts will continue the preparations for a possible multilateral treaty on the settlement of intellectual property disputes between States. The Preparatory Meeting will decide what substantive documents should be submitted to the Diplomatic Conference and which States and organizations should be invited to the Diplomatic Conference. The Preparatory Meeting will also establish the proposed Rules of Procedure of the Diplomatic Conference.

Invitations: States members of the Paris Union, the Berne Union or WIPO or party to the Nairobi Treaty and, as observers, certain organizations.

March 3 and 4 (Geneva)

Worldwide Forum on the Arbitration of Intellectual Property Disputes (jointly organized with the American Arbitration Association (AAA))

The Forum will, with particular reference to intellectual property disputes, give an overview of the various extra-judicial procedures for dispute resolution, examine the main elements of the arbitration process, and consider the nature and use of mediation as a form of dispute resolution.

Invitations: Governments, selected non-governmental organizations and any member of the public (against payment of a registration fee).

May 2 to 6 (Geneva)

Working Group on the Application of the Madrid Protocol of 1989 (Sixth Session)

The Working Group will continue to review joint Regulations for the implementation of the Madrid Agreement Concerning the International Registration of Marks and of the Madrid Protocol, as well as draft forms to be established under those Regulations.

Invitations: States members of the Madrid Union, States having signed or acceded to the Protocol, the European Communities and, as observers, other States members of the Paris Union expressing their interest in participating in the Working Group in such capacity and certain non-governmental organizations.

May 23 to 27 (Geneva)

WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (Eleventh Session)

The Committee will review and evaluate the activities carried out under the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights since the Committee's last session (November 1992) and make recommendations on the future orientation of the said Program.

Invitations: States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.

June 6 to 10 (Geneva)

Committee of Experts on a Possible Protocol to the Berne Convention (Fourth Session)

The Committee will continue to examine the question of the preparation of a possible protocol to the Berne Convention for the Protection of Literary and Artistic Works.

Invitations: States members of the Berne Union, the Commission of the European Communities and, as observers, States members of WIPO not members of the Berne Union and certain organizations.

June 13 to 17 (Geneva)

Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms (Third Session)

The Committee will continue to examine the question of the preparation of a possible new instrument (treaty) on the protection of the rights of performers and producers of phonograms.

Invitations: States members of WIPO, the Commission of the European Communities and, as observers, certain organizations.

June 20 to 23 (Geneva)

WIPO Permanent Committee for Development Cooperation Related to Industrial Property (Sixteenth Session)

The Committee will review and evaluate the activities carried out under the WIPO Permanent Program for Development Cooperation Related to Industrial Property since the Committee's last session (November 1992) and make recommendations on the future orientation of the said Program.

Invitations: States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.

September 26 to October 4 (Geneva)

Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Fifth Series of Meetings)

Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.

Invitations: As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.

UPOV Meetings

(Not all UPOV meetings are listed. Dates are subject to possible change.)

1994

November 2 to 4 (Geneva)

Technical Committee

Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental and non-governmental organizations.

- November 7 and 8 (Geneva)** **Administrative and Legal Committee**
Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental and non-governmental organizations.
- November 9 (a.m.) (Geneva)** **Consultative Committee (Forty-Eighth Session)**
Invitations: Member States of UPOV.
- November 9 (p.m.) (Geneva)** **Council (Twenty-Eighth Ordinary Session)**
Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental and non-governmental organizations.

Other Meetings

1994

- February 2 to 8 (Queenstown)** **International Federation of Industrial Property Attorneys (FICPI): Executive Committee.**
- May 4 to 9 (Beijing)** **Licensing Executives Society International (LESI): International Conference.**
- May 8 to 11 (Seattle)** **International Trademark Association (INTA): 116th Annual Meeting.**
- May 23 to 25 (Turin)** **International Publishers Association (IPA): Symposium on the theme "Publishers and New Technology."**
- May 25 to 28 (Luxembourg)** **European Communities Trade Mark Association (ECTA): Annual General Meeting and Conference.**
- May 28 to June 5 (Ostend)** **International Federation of the Seed Trade (FIS)/International Association of Plant Breeders for the Protection of Plant Varieties (ASSINSEL): World Congress.**
- June 12 to 18 (Copenhagen)** **International Association for the Protection of Industrial Property (AIPPI): Executive Committee.**
- June 19 to 24 (Vienna)** **International Federation of Industrial Property Attorneys (FICPI): Congress.**

