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COPYRIGHT AND NEIGHBORING RIGHTS LAWS AND TREATIES

(INSERT)

Editor's Note

ESTONIA

Copyright Law (of November 23, 1992) ..... Text 1-01

UNITED STATES OF AMERICA

North American Free Trade Agreement Implementation Act (Public Law 103-182 of December 8, 1993) ..... Text 1-02

Notifications Concerning Treaties Administered by WIPO in the Field of Copyright

Convention Establishing the World Intellectual Property Organization and Certain Other Treaties Administered by WIPO

Declaration

GEORGIA

The Government of Georgia deposited, on January 18, 1994, the following declaration:

"The Government of the Republic of Georgia hereby declares that

- the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967, and amended on September 28, 1979,
- the Paris Convention for the Protection of Industrial Property, of March 20, 1883, as revised at Stockholm on July 14, 1967, and amended on September 28, 1979,
- the Patent Cooperation Treaty (PCT), of June 19, 1970, as amended on September 28, 1979, and modified on February 3, 1984,

continue to be applicable to the territory of the Republic of Georgia and accepts the obligations set forth in the said Conventions and Treaty in respect of that territory."

Under the unitary contribution system, Georgia will belong to Class IX for the purpose of establishing its contribution towards the budgets of the World Intellectual Property Organization and the contribution-financed Unions.

WIPO Notification No. 172, of January 18, 1994.

WIPO Convention

Accession

BRUNEI DARUSSALAM

The Government of Brunei Darussalam deposited, on January 21, 1994, its instrument of accession to the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967.

Under the unitary contribution system, Brunei Darussalam will belong to Class S for the purpose of establishing its contribution towards the budget of the World Intellectual Property Organization.

The said Convention will enter into force, with respect to Brunei Darussalam, on April 21, 1994.

WIPO Notification No. 173, of January 26, 1994.

Normative Activities of WIPO in the Field of Copyright

WIPO Arbitration Center

Contacts With Other Arbitration Institutions and Users

Swiss Arbitration Association (ASA). In November 1993, a WIPO official made a presentation on questions of principle concerning the arbitrability of intellectual property disputes at a conference on objective arbitrability, antitrust disputes and intellectual property disputes, organized by ASA in Zurich.

Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms

Second Session

(Geneva, November 8 to 12, 1993)

REPORT

adopted by the Committee

I. Introduction

1. In pursuance of the decision taken by the Assembly and the Conference of Representatives of the Berne Union on September 29, 1992 (see document B/A/XIII/2, paragraph 22) modifying the decision taken by the Governing Bodies of the World Intellectual Property Organization (WIPO) and the Unions administered by WIPO at the twenty-second series of meetings in Geneva, in September-October 1991 (see document AB/XXII/2, item 03(2) and document AB/XXII/22, paragraph 197) and upon the invitation of the Director General of WIPO, the second session of the Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms (hereinafter referred to as "the Committee") met at the headquarters of WIPO, in Geneva, from November 8 to 12, 1993.

2. Experts from the following 49 States and one intergovernmental organization members of the Committee attended the meeting: Argentina, Australia, Austria, Belgium, Brazil, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Czech Republic, Denmark, Ecuador, Egypt, Finland, France, Germany, Ghana, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Lesotho, Luxembourg, Mexico, Morocco, Netherlands, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Senegal, Spain, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Uruguay and the Commission of the European Communities (CEC).

3. Representatives of the following four intergovernmental organizations participated in observer capacity: International Labour Office (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), General Agreement on Tariffs and Trade (GATT), European Free Trade Association (EFTA).

4. Observers from the following 36 non-governmental organizations participated in the meeting: Agency for the Protection of Programs (APP), American Federation of Musicians of the United States and Canada (AFM), American Federation of Televi-

sion and Radio Artists (AFTRA), Asia-Pacific Broadcasting Union (ABU), Asociación Argentina de Intérpretes (AADI), Association for the International Collective Management of Audiovisual Works (AGICOA), Association of Commercial Television in Europe (ACT), Association of European Radios (AER), Electronic Industries Association (EIA), European Broadcasting Union (EBU), Ibero-Latin-American Federation of Performers (FILAIE), Information Industry Association (IIA), Inter-American Copyright Institute (IIDA), International Association for the Protection of Industrial Property (AIPPI), International Association of Broadcasting (IAB), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International Copyright Society (INTERGU), International Council on Archives (ICA), 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 Group of Scientific, Technical and Medical Publishers (STM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU), International Theatre Institute (ITI), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), National Association of Broadcasters (NAB), National Music Publishers' Association Inc. (NMPA), Performing Arts Employers Associations League Europe (PEARLE), Sociedad de Autores y Compositores de México (SACM), Société civile pour l'administration des droits des artistes et musiciens interprètes (ADAMI), Software Publishers Association (SPA).

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

II. Opening of the session

6. Mr. Jukka Liedes (Finland), elected as Chairman at the first session, welcomed the participants and opened the meeting. This session was a continuation of the discussions which took place at the first session, held in Geneva from June 28 to July 2, 1993, based on the memorandum prepared by the International Bureau of WIPO entitled "Questions Concerning a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms" (document INR/CE/I/2; hereinafter referred to as "the memorandum"). The Secretariat noted the interventions made and recorded them on tape. This report summarizes the discussions without reflecting all the observations made.

III. Examination of questions concerning a possible instrument on the protection of the rights of performers and producers of phonograms

General discussion

7. The Chairman invited States and intergovernmental organizations which had not taken the floor during the first session or which wanted to modify their views expressed in the first session or inform the meeting about national developments to make general comments and to express their views on the questions contained in the memorandum.

8. The Delegation of Morocco was pleased to note the efforts made towards a new instrument to protect the rights of performers and producers of phonograms, notably to respond to the challenges posed by new technologies. However, the possibility of a conflict between, on the one hand, authors' rights and, on the other, neighboring rights had to be borne in mind. Phonogram producers and performers were not creators in the way that composers were. The Delegation also stressed that the possible new instrument should be a special agreement under Article 22 of the Rome Convention. As regards enforcement of rights, it favored using the relevant part of the GATT/TRIPS text.

9. The Delegation of the United States of America said that its position concerning the nature and structure of the new instrument had been explained already in the first session. Time had come to bring the protection of phonogram producers and performers in line with that of other creators protected under the Berne Convention and, hence, a high level of protection should be granted, on a national treatment basis. There was indeed no reason to grant a lower level of protection to one class of creative artists, particularly in view of the ever growing importance of sound recordings in international trade and of the foreseeable impact of the digital revolution. In its country, work towards an "electronic superhighway," as a part of a national information infrastructure, would progressively erase the distinction among various categories of works. This new technology would allow high-speed transmission of works, modify financial flows and afford new opportunities, as well as new challenges, to both users and creators and thus have a substantial impact on the national economy and international trade. The possible instrument was about the future and, to

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

ensure its success, the Committee should steer clear of old distinctions and doctrinal debates that were no longer valid. Taking account of the reality of business practices and international commerce, an achievable first step would be to cover only sound recordings.

10. The Delegation of the Commission of the European Communities recalled that its position had been set out at the first session. It welcomed the continuation of the work of this Committee to develop the protection already afforded by existing international instruments in the field of rights which are recognized within the Community as belonging to authors and those termed neighboring rights. In responding to the challenges posed by technology, the best of existing traditions should be kept to find an adequate solution.

11. The Delegation of Australia informed the Committee that, since the first session, its Government had taken the view that the possible instrument should also include provision for rights for broadcasting organizations.

12. The Delegation of Denmark agreed with the intervention of the Delegation of the Commission of the European Communities and said it attached great importance to the coverage of audiovisual performers. Also, the interests of broadcasters should be taken into account in future work of the Committee. Finally, it should be made clear that the possible instrument would establish only minimum obligations, as was already the case under, for example, the Berne and Rome Conventions.

13. After the general discussion, the Chairman opened the debate on the parts of the memorandum that had not been dealt with at the first session of the Committee.

Rights of communication to the public and public performance (paragraphs 56(e) and (f) and 57(e) and (f) of the memorandum)

14. A number of delegations and observers from non-governmental organizations suggested that the rights of performers and producers of phonograms be dealt with separately.

15. Some delegations and observers from non-governmental organizations expressed the view that the new instrument should cover the rights of all performers, including performers' rights in audiovisual fixations. Two observers from non-governmental organizations said that the possible instrument should not deal with audiovisual fixations. Another observer from a non-governmental organization stressed that there was no difference, from a performer's point of view, whether a particular musical performance was fixed on a purely aural recording or on a medium containing also images. Leaving aside audiovisual fixations would have a tremendous negative impact on the protection of performers, particularly in the digital era, as almost all fixations of musical performances would contain also images.

16. Some delegations and observers from non-governmental organizations said that a distinction should be made among basic types of communication to the public, namely among broadcasting digital delivery and other ways of communication to the public, and the possible overlap between these notions and those of distribution and public performance should be examined further. The proposals of the International Bureau should be further itemized, along with an appropriate modification of the definitions, to facilitate the progress in the work of the Committee.

17. Some delegations believed that it would be difficult to agree on a definition of "public," and it would thus be preferable to leave the matter up to national legislation. One delegation added that the proposed definition of "public" in paragraph 28 of the memorandum was too restrictive, as it referred to only the "closest" social acquaintances as a private circle. For example, the transfers of material between offices, studios, educational institutions for internal consideration could also be considered private acts. Two delegations felt that, in the case of public performance, the public should be assembled in the same place at the same time. Two other delegations felt that the definition of "communication to the public" was too broad with respect to secondary use and that special provisions were needed for rebroadcasting and cable retransmission.

18. Turning to the establishment of a general right of communication to the public and of a right of public performance, a few delegations and a number of observers from non-governmental organizations welcomed the proposal to provide for full exclusive rights (i.e., to authorize or prohibit communication to the public and public performance) for both performers and producers of phonograms. A delegation added that, in its country, such an exclusive right had been in existence since 1982, and no distinction was made between analog and digital broadcasting. Another delegation said that it could only support exclusive rights in this field for producers of phonograms. An observer from a non-governmental organization recalled that performers wanted control over all forms of use of their work, which, however, had been refused when the Rome Convention was negotiated. The main purpose of an exclusive right was to improve the bargaining posi-

tion of rights holders, not impose unreasonable conditions on use of performances.

19. Some delegations and observers from non-governmental organizations stated that, if exclusive rights were established, they should be accompanied with provisions concerning collective administration, to avoid situations of total prohibition in which rights holders would prevent works from being made available to the public by broadcasting or in bars, cafés, etc.; this could give rise to potentially anti-competitive practices. A delegation said that collective administration avoided the extremes of, on the one hand, a full individually exercised exclusive right and, on the other, a simple right to remuneration; the establishment of a neutral body to solve disputes, such as a copyright tribunal, could be considered as a potential solution. This position was supported by another delegation. An observer from a non-governmental organization felt that the situation would not be better, for those who oppose exclusive rights, even with collective administration, as collective administration organizations were often in a monopolistic situation. Two other observers from non-governmental organizations answered that all rights holders had a similar interest in ensuring that the result of their work reached the market, but exclusive rights were necessary to ensure that this was done in an orderly fashion. Moreover, mechanisms were put in place to ensure that collective administration functioned well.

20. Several delegations and observers from non-governmental organizations said that, while they understood the rationale for the proposals of the International Bureau, establishing an exclusive right of communication to the public would upset the delicate balance of interests among authors, performers, producers of phonograms, broadcasters and other owners of copyright or neighboring rights as well as users. A delegation added that, while in certain cases an exclusive right could be established (for example, in the case of reproduction), the situation in cases of mass uses was different. An observer from a non-governmental organization stated that many broadcasters, notably in the United States of America, were already in a difficult situation and could not accept to pay more. Some of those delegations and observers also stressed that the interests of broadcasters not only as users, but also as rights holders, should be fully taken into account.

21. Some delegations and observers from non-governmental organizations were of the view that the present system under Article 12 of the Rome Convention should be maintained. Others suggested modifying it to make the equitable remuneration mandatory for both performers and producers. A delegation insisted in applying the right to equitable remuneration only to cases where a phonogram was used directly for broadcasting or other communication to the public, as was the case under Article 12, while another delegation supported a comprehensive right also applying to direct broadcasting and rebroadcasting. Another delegation expressed the view that the new instrument should only provide for a right to remuneration for communication to the public and a levy on blank media to compensate rights holders for private copying. It was also stressed that technical devices, such as the Serial Copy Management System (SCMS), which prevented the making of a second generation of digital copies and could apply also to digital broadcasting, would complement legal measures.

22. Some of the delegations and observers from non-governmental organizations also emphasized that a hierarchy of norms between, on the one hand, authors' rights and, on the other, neighboring rights, should be maintained. Some of those participants referred to Article 1 of the Rome Convention, stressing that it should form part of the possible instrument or that otherwise it should be stated that the protection of neighboring rights did not affect the protection of authors' rights. Two observers from non-governmental organizations said that only authors were creators, while performers and producers were auxiliaries of creation. Granting exclusive rights to performers and producers would lead to an increase in their bargaining power and, hence, in the remuneration that they would receive, and to a corresponding diminution of authors' revenues. One observer added that it was the work of the composer which was at the origin of the entire process and that, without such work, performers and producers would not exist.

23. An observer from a non-governmental organization answered that, as there was no balance between authors and performers at present, no such balance could be maintained. Authors and performers were artists. In many cases, the composer and the performer were one and the same. The debate should not be couched in terms of which categories of artists deserved to be better protected, but rather focus on determining which rights were necessary to meet the specific needs of all types of artists. The "cake theory" had been rejected a long time ago and could no longer be invoked against performers.

24. Turning to the establishment of a right in respect of digital communication to the public and other aspects of digital technology, many delegations and observers from non-governmental organizations believed that the memorandum accurately described an important part of the impact of digital technology on neighboring rights. In the same vein, others felt that, while not all consequences of technological

evolution could be foreseen, some were predictable and could be acted upon already, so as to avoid having to reopen the matter in two or three years. A number of observers from non-governmental organizations stressed, for example, the foreseeable increase in home taping on digital medium of works and phonograms broadcast or delivered in digital format and the important economic value that digital delivery would take as well as the resulting dematerialization of the use of works and phonograms.

25. Some other delegations and observers from non-governmental organizations said that, owing to the lack of data concerning the exact practical implications of new technologies, it would be premature to legislate in this field and that further study was necessary. An observer from a non-governmental organization urged that legislation in this area should be phrased in broad, general terms, to be flexible in adapting to technological change. He said that drafters should avoid narrow, rigid specification of technology such as that unfortunately used in the Semiconductor Chip Protection Act of 1984 of the United States of America. Another observer from a non-governmental organization referred to a study in which the chairman of a multinational company test-marketing a digital audio delivery system was quoted as saying that early users of such a system had in fact purchased more compact discs. This showed, in his view, that the fears related to an increase in home taping owing to digital delivery were unfounded.

26. Responding to some of those points, an observer from a non-governmental organization felt that the digital revolution would do much more than affect private copying and it could very well be that copies would become irrelevant in the interactive age, as users would have permanent on-line access to music and other material, and could either browse or download such material. The work of the Committee should focus, therefore, on providing the necessary exclusive rights to assure the proper functioning of such future systems.

27. Another observer disagreed, adding that the digital/analog distinction was not crucial. For example, most material stored on analog medium could be transposed on digital format, and vice versa. In the same vein, some delegations and observers from non-governmental organizations felt that there was no special reason to grant an exclusive right as regards digital broadcasting, because digital broadcasting was no different from analog broadcasting from the point of view of intellectual property. The phenomenon was the same, i.e., over-the-air diffusion of works programmed by the broadcasters to a "passive" audience.

28. A great number of delegations and observers from non-governmental organizations felt that, in cases where the decisions (i.e., the choice of works) were made by users, as in the case of interactive delivery systems as opposed to broadcasting, the establishment of an exclusive right would be justified. Two observers from non-governmental organizations were of the view, however, that this distinction should not be made, because just as much damage could be done, in terms of private copying for example, by digital broadcasting if the listener knew in advance the contents of a broadcast program. It would be a grave mistake to try to parse out various situations which, in practice, would all ride on the "electronic highway." In fact, conceptually, the situation was not very different from that posed by information retrieval from electronic data bases, and the copyright problems associated therewith had now emerged also in respect of the protection of producers of phonograms. Hence, there was an important practical difference between analog and digital broadcasting, and the proposals of the International Bureau had offered the proper solution. In other words, exclusive rights concerning both communication to the public and public performance were essential and a simple right against unauthorized fixation would be insufficient, as some performances could now be communicated to the public without any fixation. The situation had changed dramatically since 1961, and the old rules of the Rome Convention were no longer sufficient and adequate.

29. In his concluding remarks on this part of the discussions, the Chairman stated that the discussion had been rich and had provided plenty of raw material for the preparation of the next generation of documents. While it was too early to draw final conclusions, all those who had taken the floor had recognized the need to protect performers and producers of phonograms in respect of communication to the public and public performance, and a right to remuneration was the smallest common denominator in that regard. There was support for the principle of establishing exclusive rights, but also some hesitation. In particular, opinions on whether an exclusive right was warranted for digital broadcasting were divided, even though there was limited but substantial support for such a right, notably if administered collectively. The proposals in this area should, therefore, be maintained as a "test case" for the continuation of the debate. As regards digital on-demand delivery systems, further study was required to determine to what extent their impact would be different from that of analog delivery, whether over-the-air or by wire. The nature of such delivery systems should also be studied and, in that respect, the application of the rights of communication to the public, distribution, reproduction or perhaps an

entirely new right should be explored. As regards public performance, no specific conclusion could be drawn for the time being. The debate had shown the importance of definitions. Finally, the need to focus at the appropriate time on rights and interests of broadcasters should not be forgotten.

Exceptions (paragraph 57(g) of the memorandum)

30. Several delegations felt that no direct reference should be made to the Berne Convention and exceptions should rather be spelled out and self-contained. Some delegations were of the view that the proposed provision was basically appropriate. A reference to the exceptions applied in respect of copyright seemed inevitable; Article 15(2) of the Rome Convention did the same. One delegation suggested including a general exception based on the language of Article 9(2) of the Berne Convention, as was the case in Article 13 of the draft GATT/TRIPS agreement, but covering all rights, not only the right of reproduction.

31. A number of delegations and observers stressed that the exceptions concerning performing artists should not be narrower than those covering authors and that, in general, they should be of a limited nature. One delegation and an observer emphasized that the exceptions should be analyzed one by one and not necessarily in parallel to those concerning authors.

32. One delegation, supported by another delegation, suggested that the obligations under subparagraph 57(g) should be subject to the same provisions as the rights of authors under national law. A few observers from non-governmental organizations pointed out that, since paragraph 57(g) did not limit the exception to those actually applied in national legislation to authors' rights, it went further than Article 15(2) of the Rome Convention, and this had to be rectified in the next generation of proposals.

33. The Chairman stated that the discussion on exceptions should be considered a first stocktaking and said that further discussions should be postponed until there was more clarity concerning what rights would be covered by the new instrument.

Remuneration for private reproduction (paragraph 58 of the memorandum)

34. The introduction of provisions concerning remuneration for private reproduction of phonograms was supported by a great number of delegations and observers from intergovernmental and non-governmental organizations. One delegation reserved its final position as the question was subject to political considerations not yet clarified. Some delegations found that the proposed rules were too specific and detailed. Several delegations and observers made their support conditional on the introduction of a similar obligation concerning authors' rights in the possible protocol to the Berne Convention. Some observers also stressed that a remuneration scheme should be seen as only one of the measures necessary to deal with the problem; they referred to the need for combining copy-protection or copy-management systems with the proposed right to remuneration.

35. A few delegations and observers from non-governmental organizations did not support the proposal. They questioned whether home copying was harmful to the interests of the rights owners. It was necessary to take into account the interests of the general public.

36. Some delegations expressed the view that remuneration schemes were in the nature of taxes. Several other delegations and observers from non-governmental organizations stressed that this was not the case, since the remuneration was attributable to the use of literary and artistic works, was due to owners of rights, and was not paid from government funds.

37. Several delegations raised the question of how the proposed remuneration schemes related to the provisions of Article 15 of the Rome Convention and Article 9(2) of the Berne Convention, and, in particular, whether it should be stated that the instrument clarified an existing—rather than introduced a new—obligation. Some of those delegations disagreed with the interpretation offered by the Secretariat in the memorandum. Several delegations and observers agreed with the interpretation made by the Secretariat according to which private reproduction was a reproduction, and that the exclusive right of reproduction should be allowed to be restricted only within the limits of Article 9(2) of the Berne Convention. Paragraph 58 intended to clarify those limits in the case of phonogram producers and performers.

38. A great number of delegations and observers from intergovernmental and non-governmental organizations stressed that remuneration schemes should not be introduced for performers and producers of phonograms alone, but for authors as well, and, accordingly, similar provisions should be included in the possible protocol to the Berne Convention. One delegation proposed that the relevant provision on the right of remuneration granted to performers and producers of phonograms should be made dependent, in the instrument, on the existence of such a right for authors, in the national laws of the countries concerned. This proposal was supported by another

delegation. Some delegations and observers expressed opposition to those views as they did not consider the time ripe for such rights for authors either.

39. Some observers from non-governmental organizations were of the opinion that broadcasters should also be beneficiaries to the right of remuneration, as home copies were made from their broadcasts as well.

40. Several delegations and observers from intergovernmental and non-governmental organizations expressed the view that remuneration schemes for private copying should also cover audiovisual recordings. One delegation pointed out that releases of phonograms were frequently accompanied by a simultaneous release of a music video, based on the same performance, and that it would not be fair to exclude the remuneration as regards the latter. Some delegations and observers opposed the inclusion of audiovisual recordings, and they said that, in their view, such recordings were not covered by the terms of reference of the Committee.

41. One delegation and some observers from non-governmental organizations said that remuneration schemes should be accompanied by adequate adjustments of the limitations of rights, in particular to ensure that the use of recording media for which remuneration had been paid would not be considered an infringement of rights. One of those observers found that there seemed no longer to be any justification for general provisions allowing private reproduction.

42. Some observers from non-governmental organizations pointed out that future developments, in particular on-line delivery of digital recordings at the users' request, would raise problems, because that would give rise to double payment: one for the delivery and one for the blank recording material or the reproduction equipment. An observer found that such delivery systems made remuneration systems unnecessary, since they could be based on a contractual relationship between the right owners and the end users.

43. A number of delegations and observers from non-governmental organizations were of the opinion that the right of remuneration should cover blank recording material as well as recording equipment. Some delegations and observers stressed that the growing application of digital technology would make remunerations based on equipment particularly necessary. Some delegations and observers said that remuneration should be paid, regardless of whether the technique was analog or digital, while two delegations maintained that only digital recording material and equipment should be covered.

44. One delegation questioned that the obligation to pay the remuneration should be imposed on those who manufactured or imported recording material and equipment. In particular, in countries forming part of the same economic area, such obligation could raise problems and, thus, it should be preferred to impose the obligation to the person or entity that put such equipment and material on the market. This was supported by other delegations. Other delegations and observers from non-governmental organizations said that the obligation should be imposed at the start of the distribution chain. Some observers expressed their preference for imposing the obligation on all links of the distribution chain in a way to be determined under national law.

45. Some observers from non-governmental organizations mentioned that, even if the level of the remuneration were not specified in the instrument, such remuneration should be equitable, and national laws should be able to adjust it according to the needs raised by the technological development.

46. Some delegations and observers from intergovernmental and non-governmental organizations pointed out that the exception to the obligation to pay remuneration provided for in paragraph 58(a) should not be exhaustive, but rather supplemented with a faculty for national laws to provide for further exceptions, in particular in order to cater to specific social needs. Reference was made in this respect to copying by handicapped persons, by institutions engaged in teaching and scientific research, and by broadcasters and other professional users as well as to the special circumstances in developing countries. An observer from a non-governmental organization doubted that right owners should have specific obligations to subsidize such needs in developing countries when other supplies under development cooperation were normally paid for. Responding to this argument, an observer from an intergovernmental organization said that, in the field of intellectual property, all States had the legitimate right to balance the level of protection against social and economic realities.

47. Several delegations and observers from non-governmental organizations stressed that collection and distribution of the remuneration should be done by collective administration organizations. Some delegations, however, pointed out that, under their national laws, the collection was made by government agencies, and that paragraph 58(b) would have to be amended in order to cover such a situation. One delegation found that there should be minimum standards for collective administration organizations,

which could guarantee that the proceeds would actually reach the performers and phonogram producers. Several observers from non-governmental organizations emphasized that this was not a practical problem and that the organizations were, and should be, accountable towards the right owners. Some observers were of the opinion that collection of the remuneration should be made by a single joint (that is, between performers and phonogram producers) organization, whereas distribution could be made by several different organizations.

48. Some delegations and observers from non-governmental organizations considered it inappropriate to include provisions concerning the collection of the revenues and said that this should be regulated solely by national law.

49. A number of delegations and observers from non-governmental organizations wished to leave to national laws who should be the beneficiaries of the distribution of the remuneration and, thus, recommended that paragraph 58(c) be omitted. Other delegations supported paragraph 58(c) as it stood. One delegation found that the link between the copying and the right owners who shared in the remuneration, expressed in the condition that it might reasonably be presumed that copying had taken place, was too vague, and that it should be more specific; for example, it should be established through a sampling system. Another delegation and some observers supported the wording of the said paragraph as it stood and pointed out that certain approximations were a practical necessity.

50. One delegation pointed out the need for appropriate rules in national law concerning the distribution between beneficiaries, and some observers from non-governmental organizations stressed that the sharing should be equitable.

51. A certain number of delegations and observers from non-governmental organizations considered it important that certain shares of the remuneration could be deducted for other purposes than that mentioned in paragraph 58(c), either as provided for in national laws or as decided by the right owners or their elected representatives. Such purposes would be, in particular, social and cultural purposes. Other delegations and observers stressed that such deductions were only acceptable if they were made with the consent of the right owners. One delegation suggested that an upper limit be set for such deductions. Other delegations pointed out that the use of remunerations for purposes other than for remuneration due to right owners, if provided for under national laws, would qualify the levy scheme as a tax. Some of those delegations and also others, as well as some observers from non-governmental organizations, supported the proposal included in the memorandum.

52. The Chairman concluded that the proposals concerning intellectual property-type remuneration schemes for private copying should be maintained in the next generation of working documents. Such remuneration had been opposed by only a few delegates, although they represented important countries in this connection. All details should be further examined and discussed. It was evident that both performers and producers of phonograms should be beneficiaries, and reference was made to the need for such rights also for audiovisual recordings of performances. Discussions concerning audiovisual recordings of performances would take place later on the basis of a paper to be prepared by the International Bureau. For the time being, no distinction should be made in the proposed provisions between analog and digital recording techniques, although it should be noted that some delegations preferred to cover only digital recordings. The existing faculty to choose between including recording equipment, recording material, or both, as a basis for the remuneration, should be maintained in the next generation of documents. Further discussions should take place concerning the stage of the distribution chain in which the obligation to pay the remuneration should be established and whether this should relate to the country of origin or to the country of destination in cases where international trade with equipment and material was involved. In paragraph 58(a) at least handicapped users should also be exempt whereas there was no need to exempt professional users as they were not covered by the proposal as it was formulated. It might also be questioned whether it was necessary to refer to the exportation of equipment and media. Paragraph 58(b) should leave room for different solutions, including collection by state agencies. There had been a number of proposals to leave the distribution to collective administration organizations, in accordance with provisions made under national laws. Also, the majority of those who did not oppose paragraph 58(c) was of the view that the use of the remuneration for purposes other than distribution to right owners and covering administration expenses should not be prohibited, at least not where the right owners, or the statutory bodies of the collective administration organizations representing them authorized distribution for such other purposes. Many references were made to the need for parallel provisions in the possible protocol to the Berne Convention in favor of authors. Furthermore, some delegations had been critical towards the proposal that an obligation be "clarified," while others thought that the proposed provisions would really follow from the application of Article 9(2) of the Berne Convention according to paragraph 57(g) of the

memorandum. The Chairman said that as explicit and clear solutions as possible were needed.

53. The Director General said that it would be too easy to justify the deductions from money earned by performers and phonogram producers for general cultural, social or other purposes by calling such deductions a tax rather than a royalty. Also, such deductions benefit only the social, cultural and other purposes of the country in which the deductions are made, and are of no benefit to foreigners whose performances and sound recordings created a part of the earnings from which such deductions are made. Finally, he said that such a practice could put into jeopardy the respect of the principle of national treatment and could be an invitation to retaliation or reciprocity as there could be doubts whether it was reasonable to require that a country in which no such deductions are made should grant national treatment to countries in which such deductions are effected.

Moral rights of performers (paragraph 31 of the memorandum)

54. A number of delegations and several observers from intergovernmental and non-governmental organizations expressed support for the inclusion of moral rights for performers in the new instrument. Several delegations and observers expressed opposition to, or reservations concerning, the inclusion of such rights.

55. Of the delegations supporting the inclusion of moral rights for performers, several delegations commented on the manner in which—and the performances in connection with which—such rights should be exercisable. Three delegations stated that the rights should be formulated as strongly as possible, and that the phrase "as far as practicable" as a limitation on the right of paternity should be removed. One such delegation said that the right of paternity should be exercisable in connection with all acts of communication to the public of performances, and another such delegation said that the notion of "quality" of a performance should be a component of the right of integrity. Still another of the said three delegations, and one observer, stated that it should be clear that moral rights were human rights.

56. Some other delegations and observers from non-governmental organizations said that the new instrument should use only general language in formulating the moral rights of performers, and should allow national legislation to specify the performances in connection with which such rights should be exercisable.A few delegations and an observer noted that performers had not advocated legislative changes to provide moral rights.

57. Several delegations and observers from non-governmental organizations stated that moral rights could be impediments to the exercise of economic rights, and emphasized that some limitations were necessary to reduce this risk. Some of those observers stated that it was not practical to recognize the right of paternity in connection with the use of performances by broadcasting organizations. Some delegations and observers questioned whether the language "as far as practicable" was a strong enough limitation on the right of paternity. An observer said that the indication of names should only be obligatory "in the usual manner on or in connection with" copies. It was also said that, while the economic right of adaptation and the moral right of integrity were related, the modification of performances was becoming increasingly common, especially with the advent of digital technology and multimedia, and stressed that not all modifications to, or adaptations of, performances should be considered "derogatory" within the meaning of the right of integrity. One observer noted that the exercise of economic rights in respect of digital modifications of performances might become an important source of income to performers. One delegation raised the possibility that a strict right of integrity could create conflicts with its constitution and the guarantees of freedom of speech. It said that it would prefer a very general moral right provision, or none at all, to allow for its robust tradition of parody, criticism and burlesque. Several observers also stated that the right of integrity should not interfere with free expression, including criticisms and parodies of performances.

58. Some delegations stated that the term of protection of moral rights should be independent of the term of protection of economic rights and should be without time limit. One observer said that the term of protection of moral rights should be for the life of the performer, even if the term of protection of economic rights were longer than his life in respect of specific performances. Some other delegations and observers were of the view that the term of protection of moral rights should be the same as of economic rights.

59. The Chairman summarized the discussion as follows: There was general support for provisions on moral rights for performers in the new instrument. Suggestions were made for more general wording, and questions concerning the meaning of "practicability" in terms of the right of paternity, particularly in the context of broadcasting. In respect of the duration of protection, three possibilities had been mentioned, namely, a term identical with the protection of economic rights, the lifetime of the performer, and a perpetual term. Questions had been raised in respect of the scope of moral rights, particularly concerning the contexts in which the said

rights might be exercised, and whether the rights might be applicable in respect of audiovisual fixations of performances. Technology was making it ever easier to make changes in fixed performances, including by users; and the creation of new versions of performances might become a normal practice offering opportunities for creative expression. In that regard, the International Bureau should study the different circumstances in which modifications of performances were relevant in terms of the economic right of adaptation and the moral right of integrity, respectively. For example, attention should be given to the difference between works and other productions of an "artistic" nature, i.e., those with greater moral rights implications, on the one hand, and works and other productions, only offering information, which might give rise to fewer, or less significant, moral rights concerns, on the other hand.

Exercise and transfer of economic rights (paragraph 72 of the memorandum)

60. The Chairman stated that it would be useful, at this stage, for the Committee to discuss the general threshold question of whether the new instrument should or should not contain provisions on the exercise and transferability of rights. If the question were answered in the affirmative, the issue of what specific provisions might be included could be addressed by a later session of the Committee.

61. Some delegations and observers from non-governmental organizations said that provisions on the transferability of rights should be included in the new instrument. A number of delegations, and some observers from intergovernmental and non-governmental organizations were of the view that such provisions should not be included. Still some other delegations stated that they considered provisions desirable, but in a way more general than the way the provisions were proposed in the memorandum. An observer from an intergovernmental organization proposed that a provision of a general nature be incorporated in the possible instrument, leaving it to the contracting States to lay down basic provisions on which contractual relations should be based.

62. The delegations and observers favoring inclusion of such provisions stressed that the provisions were necessary to ensure the normal exploitation of rights and the healthy operation of industry and trade in the relevant fields. One such observer stated that the notion of free transferability included transferability of rights to collective administration organizations. A few observers expressed the view that provisions were needed to ensure that free transferability of rights did not work to the detriment of performers, who in nearly all cases were compelled to transfer their rights in an unequal bargaining situation. One such observer emphasized that any provisions should minimize the effect of provisions in national laws establishing presumptions of transfer of the rights of performers.

63. One delegation and one observer favoring inclusion of provisions said that it was necessary to distinguish the transferability of exclusive rights from the transferability of rights of remuneration. Another delegation noted that provisions on the exercise and transfer of rights were, in general, absent from the Berne and Rome Conventions, which was regrettable in light of new commercial realities, and, supported by another delegation, stated that provisions should be included in the new instrument because similar provisions were present in a number of national laws.

64. The delegations and observers which opposed inclusion of provisions on the exercise and transfer of rights stated that the question of transferability of rights was separate from the question of international private law concerning conflict of laws, and the two questions could not be dealt with together in the context of the new instrument, and that, even if the two issues were dealt with separately in specific proposals, those issues were outside the terms of reference of this Committee. In this context, they stressed that provisions of national laws dealing with transfers of rights and conflict of laws were based on notions of public order and public policy, which should not be overridden by provisions in a new international instrument in the field of intellectual property; furthermore, international conventions already existed which regulated questions of conflict of laws, choice of laws and arbitration in the context of the commercial relations between States. They also said that the problems that would be addressed by provisions on the exercise and transfer of rights had not yet been identified clearly enough to justify inclusion of such provisions, and that the relationship between the question of exercise and transfer of rights and the question of national treatment should be examined before including provisions on the former in the new instrument.

65. Some delegations and observers from intergovernmental and non-governmental organizations stressed that the reference to contractual freedom was not fully justified without indicating that it was appropriate to restrict such a freedom in national laws and, to offer guarantees to the contractual parties, first of all for performers, who were in weaker position.

66. Two observers from non-governmental organizations said that three alternatives were possible, namely, that the new instrument would make no

reference to exercise and transfer of rights, that a provision recognizing the free transferability of rights would be included, or that provisions would be included which recognized the inferior bargaining power of performers by providing some limitations on the free transferability of rights. They stated a clear preference for the latter type of provision, citing as an example a recent directive of the European Communities, which provided for the inalienability of certain rights of remuneration. However, they acknowledged that it was unlikely that such provisions would be widely accepted at the international level, and expressed the opinion that the new instrument should be silent on the question of exercise and transfer of rights rather than include provisions providing for completely free transferability. Another observer supported this position.

67. In summarizing the discussion, the Chairman stated that opinions differed on whether to include provisions on the exercise and transfer of rights, and if so, what specific provisions would be appropriate. He said that further analysis should be carried out before a final decision was taken on these questions. After consultation with the Director General, he suggested that the International Bureau issue a circular letter inviting governments and non-governmental organizations to indicate whether they considered provisions on exercise and transfer of rights desirable, and if they did, to propose specific provisions that they would like to have included in the new instrument, with the necessary explanatory comments, in the style of the memorandum. The said proposals would then be published before the next meeting of the Committee by the International Bureau, with any comments that Bureau might find desirable. The Chairman stated that there was an agreement in the Committee to follow that procedure.

National treatment (paragraph 86 of the memorandum)

68. The Chairman noted that a number of delegations and observers from intergovernmental and non-governmental organizations had expressed views on the question of national treatment during the general debate at the first session of the Committee of Experts, and that it was not necessary to repeat the said views now.

69. The Secretariat corrected a mistake in its memorandum: in paragraph 85, the words "without their consent" are to be stricken.

70. A number of the delegations and observers from intergovernmental and non-governmental organizations expressed their support for application of the principle of national treatment in the field of neighboring rights. However, opinions differed on the question of the rights to which national treatment should apply.

71. Some delegations and observers supported the proposal in paragraph 86(1) of the memorandum, which called for application of national treatment to rights protected under the new instrument, as well as to rights in performances and phonograms which States party to the new instrument may grant in the future. One delegation stated that comprehensive application of national treatment to all rights was essential and a condition of the acceptance of the possible instrument by its Government, whatever the eventual scope of the instrument would be.

72. A great number of delegations and of a few observers from intergovernmental and non-governmental organizations said that it was not possible to support such a broad statement of national treatment, particularly not until the minimum rights to be included in the instrument were known.

73. Several of those delegations noted that application of national treatment did not always produce an equitable result, particularly where a minimum protection was at a low level. They said that it was necessary to examine, case by case, whether national treatment would be appropriate. Another delegation agreed, stressing the need for countries which were net importers and users of protected materials to have regard to national economic consequences of national treatment.

74. Some of those delegations, while supporting national treatment in principle, also expressed preference for the formulation contained in the Rome Convention; they said that the said formulation was preferable at the present time because it only applied to rights protected under the Convention itself, and because it allowed the possibility of reservations.

75. Some delegations stated that it would also be necessary to determine the relationship between the new instrument and other international agreements in the field of intellectual property, before taking a final position on the application of national treatment. An observer from an intergovernmental organization said that his organization's approach to national treatment obligation in the context of neighboring rights was different than in the case of copyright, because the number of States party to the international copyright conventions was quite high in comparison with the number of States party to the Rome Convention containing certain provisions on possible application of reciprocity. Therefore, he was hesitant whether a full national treatment obligation should be introduced into the possible new instrument.

76. Several delegations and observers from non-governmental organizations expressed the opinion that it was unnecessary to specify that national treatment must be respected in the cases where rights were exercised by collective administration organizations, as mentioned in paragraph 86(b) of the memorandum. In their view, the general rules on national treatment would apply to such exercise, and it was superfluous to single out such a special case. One delegation said that it was not always possible for collective administration organizations to make distributions of royalty payments to rights holders, because no infallible technique yet existed to determine actual use of protected performances. Thus, it said, deductions from the proceeds of collective administration for cultural and social purposes—including the promotion of protection of rights—could be viewed as an "indirect" distribution to such beneficiaries, which would be consistent with the application of national treatment.

77. Some delegations and observers from non-governmental organizations supported the principle included in paragraph 86(b) stressing that, if a payment was due to certain rights owners, those rights owners must be in the position to decide for what purposes the payment was used.

78. In summarizing the discussion, the Chairman referred to the opinion of a number of delegations that it was not possible to draw final conclusions in respect of the application of national treatment under the new instrument, and that any final position could only be taken when the eventual contents of the new instrument were known. Several delegations expressed preference for a Rome Convention-type national treatment. Also the view was expressed, however, that there was a need for a comprehensive obligation to grant national treatment. In any case, national treatment should be dealt with in any new version of the preparatory document. The relationship of the instrument to other international agreements and the points of attachment serving as a basis for the application of national treatment should be further clarified. He noted that it was questioned whether the specific reference in paragraph 86(b) to the application of national treatment in the context of collective administration of rights was necessary, since it seemed to be included in the basic notion of national treatment without the need for such a specific reference.

Concluding remarks

79. The Chairman proposed that no discussion take place on the remaining parts of the memorandum, partly because they had been directly or indirectly discussed, such as the definitions and enforcement rights; partly because they could be transferred to a new generation of working documents taking into account their generally acceptable nature, such as the term of protection and the abolition of formalities; partly because it would still be premature to discuss them, such as the criteria of eligibility for protection, the latter being dependent on the eventual scope and context of the instrument. With this, the "first reading" of the proposals could be considered completed. He noted that there was agreement to this in the Committee.

80. After a consultation with the Director General, the Chairman announced that the next—third—session of the Committee would take place from June 13 to 17, 1994, the week following the fourth session of the Committee of Experts on a Possible Protocol to the Berne Convention (June 6 to 10, 1994).

IV. Adoption of the report and closing of the session

81. In the absence of Mr. Jukka Liedes, Chairman of the Committee, Mr. Péter Gyertyánfy, Vice-Chairman of the Committee, chaired this part of the session as Acting Chairman.

82. The Committee unanimously adopted this report, and, after the usual statements of thanks, the Acting Chairman declared the session closed.

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

Africa

Training Courses, Seminars and Meetings

WIPO Seminar on Intellectual Property for Magistrates from French-Speaking Africa (Geneva and Paris). From November 10 to 12, 1993, WIPO organized a Seminar in Geneva and Paris in cooperation with the Government of France. The seven participants came from Benin, Cameroon, Congo, Côte d'Ivoire, Gabon, Senegal and Togo. In Geneva, three WIPO consultants from France and five WIPO officials presented papers on various aspects of intellectual property. Thereafter, the seven magistrates proceeded to Paris for two-weeks' practical training at the Court of Appeal of Paris and at the National Institute of Industrial Property (INPI) of France.

Assistance With Training, Legislation and Modernization of Administration

Benin. In November 1993, a WIPO consultant from Switzerland undertook a mission to Cotonou to provide training on collective administration of copyright for the staff of the Copyright Office of Benin (BUBEDRA).

Equatorial Guinea. In November 1993, two WIPO officials held discussions, in Libreville (Gabon), with government officials of Equatorial Guinea on ways and means to strengthen bilateral cooperation.

Gabon. In November 1993, two WIPO officials held discussions, in Libreville, with government officials on cooperation between Gabon and WIPO.

Ghana. In November 1993, a WIPO consultant from Switzerland visited Accra and had discussions with officials of the Copyright Office on technical matters related to the future installation of a computerized system for the collective administration of rights.

Kenya. In November 1993, the United Nations Development Programme (UNDP) Resident Representative in Kenya had discussions with WIPO officials in Geneva on WIPO's activities in favor of Kenya.

Lesotho. In November 1993, a government official from the Ministry of Tourism, Sports and Culture had discussions with WIPO officials in Geneva on the drafting of the regulations under the Copyright Law and possible WIPO assistance in the organization of seminars for copyright owners.

Mozambique. In November 1993, a WIPO official and a WIPO consultant from Switzerland visited Maputo to discuss future cooperation programs between Mozambique and WIPO.

Niger. In November 1993, a WIPO consultant from Switzerland visited Niamey and had discussions with officials of the Copyright Office (BNDA) on future cooperation activities, particularly training of Nigerian officials in the collective administration of copyright.

Uganda. In November 1993, the International Bureau prepared and sent to the government authorities, at their request, comments on the new draft copyright law.

Zambia. In November 1993, the UNDP Resident Representative in Zambia held discussions with WIPO officials in Geneva on possible joint UNDP/WIPO activities in favor of Zambia.

In late November and early December 1993, a WIPO consultant from the United Kingdom undertook a mission to Lusaka to discuss with govemment officials the new draft copyright law as well as various aspects of the collective administration of copyright in Zambia.

Arab Countries

Assistance With Training, Legislation and Modernization of Administration

Egypt. In late November and early December 1993, a WIPO official spoke at a Seminar on the Legal Aspects of Software organized in Cairo by the Regional Information Technology and Software Engineering Center (RITSEC) (Cairo) in cooperation with the International Development Law Institute (IDLI) (Rome).

Asia and the Pacific

Training Courses, Seminars and Meetings

WIPO Regional Copyright Seminar for Asia and the Pacific Region (Tokyo). From November 15 to 19, 1993, WIPO and the Government of Japan jointly organized a Seminar in Tokyo. Twenty-four government officials from the following 12 countries and one territory attended the Seminar: Bangladesh, China, India, Indonesia, Malaysia, Mongolia, Pakistan, Philippines, Republic of Korea, Singapore, Thailand, Viet Nam and Hong Kong, as well as 70 government officials and representatives from the private sector in Japan. Papers were presented by five WIPO consultants from Australia, India, New Zealand, Sweden and the United States of America, one consultant from the International Federation of Reproduction Rights Organisations (IFRRO), 10 Japanese officials and three WIPO officials.

Inter-Agency Coordination Meeting (Kuala Lumpur). In November 1993, a WIPO official attended a Meeting, organized by UNDP in Kuala Lumpur. The Meeting reviewed the 1993 and 1994 work plans of various international organizations, including WIPO, under a UNDP-financed program for Asia and the Pacific.

Programme Advisory Group Meeting (Kuala Lumpur). In November 1993, a WIPO official attended, in Kuala Lumpur, a Meeting organized by UNDP and attended by government officials and private sector representatives from countries in the Asian and Pacific region. The Meeting gave advice on the program mentioned in the preceding paragraph.

Assistance With Training, Legislation and Modernization of Administration

Democratic People's Republic of Korea. In November 1993, 15 researchers, teachers and trade specialists from the Democratic People's Republic of Korea visited WIPO and were briefed by WIPO officials on the Organization's activities.

Mongolia. In November 1993, a WIPO official had discussions in Tokyo with Mr. Nambaryn Enkhbayer, Minister for Culture of Mongolia, on a possible future cooperation program between Mongolia and WIPO and, in particular, the establishment of a copyright protection and collective administration system in the country.

Latin America and the Caribbean

Assistance With Training, Legislation and Modernization of Administration

Ecuador. In November 1993, Mr. Eduardo Brito Mieles, President of the Ecuadorian Society of Authors and Composers (SACE), visited WIPO to discuss arrangements for the National Seminar on Copyright and Neighboring Rights for Judges and Public Prosecutors of Ecuador, to be held in Quito in June 1994.

Honduras. In November 1993, two government officials and a representative from the private sector visited WIPO to discuss with WIPO officials a possible cooperation program for the development of copyright and neighboring rights in Honduras.

Panama. In November 1993, a government official had discussions with WIPO officials in Geneva on cooperation activities in the field of copyright and neighboring rights and, in particular, the organization

of the Training Course on Copyright and Neighboring Rights in cooperation with the General Authors' Society of Spain (SGAE) to be held in Panama City in early 1994.

Venezuela. In November 1993, a government official visited WIPO to discuss with WIPO officials various aspects related to the promotion and implementation of the new Copyright Law.

Development Cooperation (in General)

WIPO Academy of Intellectual Property (Spanish Session). In November 1993, WIPO organized the first Spanish session of the WIPO Academy of Intellectual Property at its headquarters. The session lasted two weeks and comprised a program of lectures, discussions and field trips specially designed for the participants who were middle and senior level government officials of developing countries instrumental, in the field of intellectual property, in the policy-making process of their countries. The aim of the program was to inform the participants of the main elements and current issues relating to intellectual property, present those elements and issues in such a way as to highlight the policy considerations behind them and thereby to enable the participants, after their return to their respective countries, to strengthen their role in the formulation of government policies on intellectual property questions, particularly the impact of those questions on cultural, social, technological and economic development.

The nine government officials who attended the Spanish session of the Academy came from Brazil, Chile, Colombia, Costa Rica, Cuba, Mexico, Paraguay, Peru and Uruguay. Papers were presented by 10 WIPO consultants from Germany, Mexico, Portugal, Spain, Switzerland, Venezuela, the European Patent Organisation (EPO) and the Inter-American Copyright Institute (IIDA) as well as by WIPO officials. The session coordinator was Mr. Alberto Bercovitz, professor at the Universidad Nacional de Educación a Distancia of Spain. Visits were organized to the research center of a Swiss multinational firm in Lausanne, the Swiss Society for Authors' Rights in Musical Works (SUISA) in Zurich and to the Swiss Federal Intellectual Property Office in Berne.

Consultative Committee on Programme and Operational Questions (CCPOQ) Task Force on Support Costs. In November 1993, a WIPO official attended the meeting of the CCPOQ Task Force on Support Costs held in Geneva.

Activities of WIPO in the Field of Copyright Specially Designed for Countries in Transition to Market Economy

National Activities

Czech Republic. In November 1993, three government officials from the Ministry of Culture had discussions with WIPO officials in Geneva on the collective administration of rights.

Latvia. In November 1993, a WIPO official had discussions with government officials in Riga on the organization of a national seminar to be held in December 1993 in that city.

Russian Federation. In November 1993, Mr. M. Fedotov, President of the Russian Authors' Society (RAO) and Mr. A. Ter-Gazariantz, Chairman of the Board of RAO, and another representative of RAO had discussions with WIPO officials in Geneva on the copyright situation in the Russian Federation and the preparations for the country's accession to the Berne Convention.

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

National Contacts

Iceland. In November 1993, a government official had discussions with WIPO officials in Geneva on questions related to the rights of performers and joint copyright law projects for the Nordic countries.

United Nations

International Day of Solidarity with the Palestinian Peaple. In November 1993, a WIPO official attended the celebration of that Day held in Geneva.

50th Anniversary af the United Nations. In November 1993, a WIPO official attended the second meeting of the Geneva-based Working Group on Preparations for the 50th Anniversary Commemoration of the United Nations.

Intergovernmental Organizations

Cauncil of Eurape (CE). In November 1993, a WIPO official attended, as an observer, a meeting of the Council's Committee of Legal Experts in the Media Field (MM-JU) held in Strasbourg (France).

Other Organizations

Argentine Society of Authars and Music Composers (SADAIC). In November 1993, Mr. Ariel Ramirez, President of SADAIC, and several members of the Society visited WIPO and had discussions with WIPO officials on possible joint SADAIC/WIPO cooperation activities in the promotion and improvement of the collective administration of copyright in Latin American countries.

Copyright in Transmitted Electronic Dacuments (CITED) Special Interest Graup. In November 1993, a WIPO official attended a meeting of the Group in Brussels.

Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS). In November 1993, two WIPO officials had discussions with representatives of ARTISJUS in Budapest on the organization of the sixth WIPO/ARTISJUS training course for developing countries to be held in Budapest in October 1994.

International Federatian of the Phanagraphic Industry (IFPI). In November 1993, two representatives of IFPI had discussions with WIPO officials in Geneva on WIPO's project regarding international digital identifying numbers for phonograms and individual carriers.

Internatianal Publishers Assaciatian (IPA)/International Graup af Scientific, Technical and Medical Publishers (Amsterdam)/The Publishers Assaciation (London). In November 1993, Mr. Joseph A. Koutchoumow, Secretary General of IPA, Mr. Lex Lefebvre, Secretary of the above-mentioned Group and a representative of the above-mentioned Association had discussions with WIPO officials in Geneva on recent developments, at the national and international levels, relating to the rights and interests of publishers, and in particular on digital technology.

Regional Center far Book Development in Latin America and the Caribbean (CERLAL). In November 1993, Mr. Jorge Salazar Ferro, Director General of CERLAL, visited WIPO and had discussions with WIPO officials on possible future cooperation between CERLAL and WIPO in favor of Latin America.

Miscellaneous News

New WIPO Premises

The construction of a building in the Centre administratif des Morillons (CAM) in Geneva, with WIPO's financial help, by the Geneva Cantonal authorities was completed in 1993.

The building, leased by WIPO, was occupied by several administrative units of the International Bureau, including the International Trademark and Industrial Design Registries, in October 1993.

The new building was inaugurated at a ceremony organized in November 1993 by the *Fondation du Centre international de Genève (FCIG)*, the *Département des travaux publics* of the Canton of Geneva and WIPO, in the presence of the President of the *Conseil d'Etat* of Geneva, the Director General of WIPO and Mr. Jean-Pierre Stefani, the architect, who all made speeches.

National News

El Salvador. The Law on Promotion and Protection of Intellectual Property of July 15, 1993, which was published in the Official Journal No. 150, Volume No. 320, of August 16, 1993, entered into force 60 days after that publication.

Venezuela. The Law Partially Amending the Copyright Law, of August 14, 1993, was published in the Official Gazette of the Republic of October 1, 1993 (No. 4.638 extraordinary).

Calendar of Meetings

WIPO Meetings

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

1994

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: Govemments, selected non-govemmental 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 Conceming the Intemational 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-govemmental 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 Beme Convention for the Protection of Literary and Artistic Works.
Invitations: States members of the Beme Union, the Commission of the European Communities and, as observers, States members of WIPO not members of the Beme 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 Pbonograms (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.

October 10 to 28 (Geneva)

Diplomatic Conference for the Conclusion of the Trademark Law Treaty

The Diplomatic Conference is expected to adopt a treaty which will harmonize certain procedural and other aspects of national and regional trademark laws.
Invitations: States members of the Paris Union and, as observers or with a special status, States members of WIPO not members of the Paris Union 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 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

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 24 to 26 (Rio de Janeiro) — International Confederation of Societies of Authors and Composers (CISAC): Legal and Legislation Committee.

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.

June 27 and 28 (Geveva) — International Literary and Artistic Association (ALAI): Study Days.

July 11 to 13 (Ljubljana)	International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): Annual Meeting.
September 18 to 22 (Washington)	International Confederation of Societies of Authors and Composers (CISAC): Congress.
September 22 to 24 (Berlin)	International League of Competition Law (LIDC): Congress.