

Cap. 1

UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION OF INTELLECTUAL PROPERTY
(BIRPI)

Draft African Model Copyright Law



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In pursuance of one of the Recommendations adopted by the African Study Meeting on Copyright, sponsored by BIRPI and Unesco from August 5 to 10, 1963¹⁾, the Director of BIRPI convened, jointly with the Director-General of Unesco, a Committee of African Experts.

This Committee, which met at the headquarters of BIRPI in Geneva from November 30 to December 4, 1964, had been instructed to draw up, on the basis of the working documents prepared by the Secretariats of the sponsoring Organisations with the assistance of consultants, a draft African model copyright law. Experts from the following countries took part in the proceedings: Congo (Brazzaville), Ghana, Guinea, Ivory Coast, Liberia, Morocco and Nigeria.

At the close of the deliberations, the Committee adopted the general report, hereunder, together with the annexed list of participants and the texts of the draft model law and a resolution. These documents will be transmitted to the States concerned. It should be noted that the model law was considered by its draftsmen as the expression of a certain number of general principles capable of being adapted by each African legislator to internal legal structures or to international obligations. In this connection, it is certainly regrettable, particularly with regard to the term of protection of works, that the draft model law does not conform to Article 7 of the Berne Convention (Brussels text), as this will oblige States at present members of the Berne Union²⁾ or subsequently acceding to the Berne Convention to adapt their domestic laws to the provisions of the Convention.

¹⁾ See *Le Droit d'Auteur (Copyright)*, 1963, p. 199.

²⁾ See *Copyright*, 1965, pp. 4 and 5.

Draft African Model Copyright Law

CHAPTER I

Subject Matter, Scope and Beneficiaries of Copyright

Article 1

Copyright shall subsist in every original literary, scientific or artistic work, irrespective of the value, destination, manner or form of expression, such as:

- (1) books, pamphlets, and other literary, scientific or artistic writings;
- (2) lectures;
- (3) works for stage performances or for broadcasting (sound or visual), dramatic and dramatico-musical as well as choreographic and pantomimic;
- (4) musical works, with or without text;
- (5) paintings, drawings, etchings, lithographs, woodcuts and similar works;
- (6) sculpture of all kinds;
- (7) architectural works, designs and models as well as the building itself;
- (8) pictorial woven tissues and articles of applied handicraft and industrial art, the prototype as well as the work itself;
- (9) maps, also drawings, and graphic and plastic representations or portrayals of a technical or scientific nature;
- (10) cinematographic works, to which are assimilated, for the purpose of this Act, works expressed by a process producing visual effects analogous to those of cinematography;
- (11) photographic works to which are assimilated for the purpose of this Act works expressed by a process analogous to photography;

- (12) translations, arrangements and adaptations of the above-mentioned works;
- (13) works inspired by folklore.

Article 2

Copyright shall include the exclusive right to do or authorize the doing of any of the following acts, namely:

- (1) to reproduce the work in any material form, including cinematograph films and phonograms;
- (2) to communicate the work to the public by performance, or by broadcasting;
- (3) to communicate the broadcasting of the work to the public by wire, by loudspeaker or by any other instrument transmitting signs, sounds or images;
- (4) to make any translation or any adaptation of the work;
- (5) to do in relation to a translation or an adaptation of the work any of the acts specified in clauses (1), (2) and (3) above.

For the purpose of this Article, "work" means the work either in its original form or in any form recognizably derived from the original.

Article 3

The author of a work is the person who has created it. However,

- (1) where the work is produced by officials, employees or workers, as part of their duties, the persons who employ them shall be entitled to copyright originally, unless the contrary results from a contract or regulations applying to the parties concerned; this rule shall also apply to legal entities;
- (2) where the work is commissioned by a person who is not the employer of the author and who pays or agrees to pay for it and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to copyright originally, unless there is a stipulation to the contrary.

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Article 4

“Work of joint authorship” means a work produced by the collaboration of two or more authors and in which the contribution of one author is not distinct from the contribution of the other author or authors.

Article 5

The authors of translations, adaptations, new versions, or arrangements of literary, scientific or artistic works shall enjoy the protection provided by this Act, without prejudice to the copyright in the original work.

This shall also apply to authors of anthologies or collections of various works, which, by reason of the selection and arrangement of their content, constitute intellectual creations.

Article 6

Notwithstanding a total or partial cession of the copyright in a work inspired by folklore, or an exclusive licence relating to such work, the author thereof shall retain the right to authorize uses of such work in the country in which the present Act is applicable.

For the purpose of this Act, a “work inspired by folklore” means any work composed by any author specified in Article 31 below with the aid of elements which belong to the traditional African cultural heritage.

The provisions of this Article may be extended, by treaty or by special agreement, to authors who are subjects of other African States.

Article 7

In the absence of a stipulation to the contrary, when copies of a work are produced, or when it is made accessible to the public, the name of the author shall be stated to the extent and in the manner required by proper practice.

A work may not be changed in any manner which is prejudicial to the author’s honour or reputation, nor may it be made accessible to the public in such a form or context as to prejudice the author in the manner stated.

CHAPTER II
Limitations on Copyright

Article 8

When a work has been lawfully made accessible to the public, the author shall not be entitled to prohibit:

- (1) communications (performance, broadcasting)
 - (a) if they are private and free of charge,
 - (b) if they are made for educational purposes or at religious services;
- (2) reproductions, translations and adaptations destined exclusively for personal and private use.

Article 9

It shall be permissible to make quotations of a work already lawfully made accessible to the public, provided that they are compatible with fair practice and to the extent justified by the scientific, critical, informatory or educational purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

Such quotations may be utilised in their original form or in translation.

Article 10

Sound, or sound and visual, reproductions of broadcast literary, scientific or artistic works may be made if they are destined for educational purposes.

Article 11

By permission of the Minister of [or the competent authority], and according to conditions stated therein, public libraries, non-commercial documentation centres, scientific institutions and educational establishments may reproduce, in the necessary number for the purpose of their activities, by a photographic or similar process, literary, scientific or artistic works.

Article 12

Articles on current political, social, economic or religious topics may be reproduced by the press or broadcast, unless

reproduction is expressly prohibited. However, the source must always be clearly indicated.

Article 13

In reports of a current event by means of photography, cinematography or broadcasting, literary, scientific or artistic works, which can be seen or heard in the course of the said event, may be reproduced and communicated to the public to the extent necessary for the informatory purpose.

Article 14

Reproduction for cinematography or broadcasting, and communication to the public of works of plastic art and of architecture may be made if the said works are permanently located in a public place or included in the film or in the broadcast only by way of background or by a way otherwise incidental to the essential matters represented.

Article 15

A broadcasting organisation may reproduce a work by its own means and for the purpose of its broadcasts, provided that these reproductions are destroyed or rendered unusable after a maximum period of one year beginning with the day on which they are first used.

However, such reproductions may be broadcast only if the broadcasting organisation which produced them is authorized to do so.

Reproductions presenting an exceptional documentary character may be kept in the official archives designated to this effect by the Minister of [or the competent authority].

Article 16

Broadcasting of works already lawfully made accessible to the public and communication to the public of such broadcast works may be made, if the author is not represented by an organisation of authors admitted to function on the national territory in the terms of Article 24 below.

However, in this case, the rights of the author contained in Article 7 shall not be infringed, nor his right to receive a fair compensation, which shall be fixed, in the absence of a friendly arrangement, by the authority appointed in accordance with Article 25 below.

CHAPTER III

Transfer of Copyright

Article 17

Copyright shall be deemed movable property. It may be transmitted to the heirs of the ~~author~~ or to his successors in title. It may be alienated in whole or in part. However, total alienation of future works is null and void, except to an organisation referred to in Article 24 below.

Article 18

The transfer of the right to communicate the work to the public shall not imply transfer of the right to reproduce it.

The transfer of the right to reproduce the work shall not imply transfer of the right to communicate it to the public.

Article 19

The transfer of the sole copy or of one or several copies of the work shall not imply transfer of the copyright.

Article 20

The authorization to broadcast a work covers all free communications made by its own means and under its own responsibility by the broadcasting organisation which holds such an authorization.

Article 21

In the absence of a stipulation to the contrary, the maker of a cinematographic work has the right to exploit or authorize the exploitation of the said work.

However, this provision shall not apply to musical works with or without text.

CHAPTER IV
Duration of Copyright

Article 22

Copyright shall exist for the life of the author and thirty years running from the date of his death.

In the case of works of collaboration, the date of the death of the last surviving collaborator shall be considered alone for the calculation of the term of protection.

Article 23

Copyright shall exist for thirty years running from the date at which the work has been lawfully made accessible to the public,

- (1) in the case of photographic or cinematographic works;
- (2) in the case where copyright is the original property of a legal entity;
- (3) in the case of anonymous or pseudonymous works, as long as the author of the work remains unknown.

CHAPTER V
Exercise of Copyright

Article 24

The Minister of [or the competent authority] shall designate the local organisation or organisations of authors which are sufficiently representative, which may be admitted to function in the national territory under conditions fixed by him [or it], in order to assure the administration of the rights granted by the present Act to authors.

Article 25

The Minister of [or the competent authority] shall designate the authority which will determine disputes arising between the organisation or organisations of authors mentioned above and persons who wish to obtain the necessary authorizations from them for the use of works.

This authority may grant the said authorizations if it appears that they have been unreasonably refused or it may modify clauses or conditions which it may deem exorbitant.

CHAPTER VI

Remedies for Infringement

Article 26

In case of danger of infringement of the rights granted to him by the present Act or if these rights are infringed, the author may take legal steps to prevent the infringement or to forbid the continuation or repetition thereof.

Article 27

The importation into the national territory of any copies of a work which would constitute an infringement of the rights protected under this Act is prohibited.

Article 28

If any person shall infringe the copyright in any work protected under this Act, such person shall be liable to pay to the proprietor of this right such damages as may be fixed by the competent tribunal.

Article 29

If any person knowingly accomplishes or causes to be accomplished any action in violation of this Act, such person shall be liable to a fine of to

In case of repetition of violation of this Act, such person shall be liable to a fine of to and to an imprisonment of to

Article 30

At the request of the author, the competent tribunal may prescribe the seizure, confiscation or destruction of copies implicated in the infringement or in the violation of copyright, as well as all other measures deemed necessary.

CHAPTER VII
Applicability of the Act

Article 31

The provisions of this Act shall apply to works of subjects and persons domiciled in, to works of stateless persons or refugees who have their habitual residence in and to works first lawfully made accessible to the public in, works of architecture and works of art incorporated in buildings situated in

Article 32

The application of this Act may be extended to works, persons and organisations designated by the competent authority.

Article 33

This Act shall come into force on

General Report

presented by Mr. Issa Ben Yacine Diallo (Guinea),
Rapporteur

At the close of the proceedings of the African Study Meeting on Copyright, held under the joint auspices of Unesco and the United International Bureaux for the Protection of Intellectual Property (BIRPI) at Brazzaville, from August 5 to 10, 1963, the African delegates recommended in particular that

“African experts, with the assistance of Unesco and BIRPI, propose to the African nations a draft model law for the protection of copyright which would take account of the realities of the African continent.”

In order to give effect to this Recommendation, a Committee of African Experts was convened by the Director-General of Unesco and the Director of BIRPI. It met in Geneva, at the headquarters of BIRPI, from November 30 to December 4, 1964.

In response to the invitations addressed to them, the Governments of the following seven States appointed experts to act in a personal capacity without binding their respective Governments: Congo (Brazzaville), Ghana, Guinea, Ivory Coast, Liberia, Morocco and Nigeria. The full list of participants is attached to this report.

The meeting was opened by the Director of BIRPI, Professor G. H. C. Bodenhausen, who welcomed the personalities present and stressed the importance of the task entrusted to the Committee of African Experts for the future of copyright in Africa. He recalled that the purpose was to determine a certain number of general legal provisions and to make a sort of model from which the draftsmen of African laws could later take their inspiration. He wished the African experts every success in their work.

Mr. Gomes Machado, representing the Director-General of Unesco, then spoke of the need to draft legislation for the protection of copyright, which governs to a large extent economic, social and cultural development, at a comparable rhythm in countries which, because of their position or the fact of their having the same cultures, have to concentrate their efforts on the same problems. An exclusively African conception should be worked out in this connection, in conformity with the realities and requirements of the African continent. He reminded the meeting of the work done by Unesco to assist the newly independent States, at their own request, to secure the best possible economic and social conditions within the framework of the realities of their own continent.

The Committee then proceeded to elect its Officers. Mr. Auguste Gandzadi (Congo-Brazzaville) was unanimously elected as Chairman, and Mr. Joseph Amoo Dodoo (Ghana) and Mr. Issa Ben Yacine Diallo (Guinea) were respectively elected Vice-Chairman and Rapporteur. At the same time, the Committee appointed a Working Group, composed of Mr. François Amon d'Aby (Ivory Coast), Mr. Abderrahim H'ssaïne (Morocco) and Mr. Onuora Nzekwu (Nigeria), to submit a draft law capable of being used as a basis for discussion by

the Committee. For this purpose, the Working Group had at its disposal documentation prepared by the Secretariats of the two host Organisations with the help of Consultants.

In taking the Chair, Mr. Gandzadi expressed his thanks for the tribute paid to his country in electing him to this office and hoped that the work of the Committee of Experts would be both useful and profitable to the whole of Africa.

After fixing the agenda of its meeting, the Committee left the Working Group to prepare a draft model copyright law for the use of the African States.

After the draft had been studied at great length, it was adopted by the Committee of Experts in the final form in which it is reproduced in an Annex to this report. The discussions on this draft are summed up below, Article by Article.

In addition, the Committee held an exchange of views on the general considerations which should preside over the preparation of a draft model law for the African countries. It emerged from the discussion that it was both necessary and desirable to present one single general text, within the framework of African unity, that would be sufficiently flexible to permit all the Governments concerned to adopt its principles, subject to their adjustment to internal legal structures and local requirements. The Recommendation adopted by the meeting of the African National Commissions for Unesco, held at Kampala in September 1963, was recalled in this connection.

Article 1 (Protected works: determination and component elements of a criterion)

The Working Group proposed that copyright should subsist in every literary, scientific or artistic work, irrespective of the value, destination, manner or form of expression, and that the principle of a non-restrictive list of protected works should be adopted. This list, which is patterned on the list found in a number of national legislations, clearly provides, however, for works inspired by folklore.

Mr. Dodoo (Ghana) submitted an amendment requiring that Article 1 should be drafted in the following terms:

“1. Copyright shall subsist in every literary, musical, artistic work, cinematograph film, gramophone record and broadcast, provided

(a) sufficient effort has been expended on making the work to give it an original character, and

(b) the work has been written down, recorded or otherwise reduced to material form, whether with or without consent.

2. Any work intended by the author to be used as a model or pattern to be multiplied by any industrial process should not be accorded copyright.”

Several experts drew attention to the difficulty of interpreting the criterion of “sufficient effort” to give the work an original character, as well as the equally subjective aspect of the notion of originality. Furthermore, the amendment submitted implied the necessity of a fixation of the work as a condition for protection, and it also provided that gramophone records and broadcasts should be protected if they satisfied the prescribed conditions.

However, in an attempt to reconcile the systems presented, Mr. Nzekwu (Nigeria) then proposed that copyright should subsist in every original literary, scientific or artistic work, such as writings, musical works, dramatic and cinematographic works, paintings, engravings, sculpture and works inspired by folklore.

It seemed to the Committee that emphasis should be placed on the character of originality and the Chairman proposed inserting the word “original” before “literary, scientific or artistic work” in the text submitted by the Working Group.

The amendment proposed by Mr. Nzekwu having received only two votes, the Chairman put his own proposal to the vote and it was adopted by four votes to two, with one abstention, that of Mr. Dodoo (Ghana).

Basing itself on an observation by Mr. Dodoo, the Committee agreed that the wording of Article 1 did not prevent

national legislation from stipulating that fixation might be necessary for the protection of the work.

Article 2 (Nature and enumeration of the author's rights)

The Working Group proposed that copyright should include the exclusive right to do or authorise the doing of a number of acts which are enumerated.

Mr. Dodoo (Ghana) proposed the following amendment:

“ Copyright in a literary, musical or artistic work is the exclusive right to control the doing in of any of the following acts, namely the distribution of copies, the public performance for payment, and the broadcasting, of the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original. ”

Mr. Nzekwu (Nigeria), for his part, proposed that copyright should include the exclusive right:

- (1) to reproduce, to communicate to the public and to broadcast the whole work or a substantial part thereof, either in its original form or in any form recognizably derived from the original;
- (2) to make any translation or any adaptation of the work;
- (3) to do in relation to a translation or an adaptation of the work any of the acts specified in (1) above.

The amendment submitted by Mr. Dodoo was put to the vote and rejected by six votes to one.

Having admitted that the essential problem was that this Article should cover the work in its original form and also in any other form recognizably derived from the original, Mr. Nzekwu agreed to accept the text proposed by the Working Group, subject to an addition to that effect. The text, thus completed, was adopted by the Committee by five votes and two abstentions, those of Mr. Dodoo (Ghana) and Mr. H'ssaïne (Morocco).

Article 3 (The author of a work)

The Working Group proposed the general principle that the author of a work is the person who has created it. How-

ever, this principle is subject to two exceptions: where the work is produced as part of the duties of an employee, or in pursuance of a commission.

Mr. H'ssaïne (Morocco) proposed that in the case of works produced as part of the duties of an employee the words "the persons who employ them" should be deleted. In the case of works produced in pursuance of a commission, he proposed that the pecuniary right should continue to belong originally to the author, unless otherwise agreed between the parties.

The Chairman having observed that there was no question here of a contract of adhesion but of a synallagmatic contract, the Committee adopted the text proposed by the Working Group by six votes to one, that of Mr. H'ssaïne (Morocco).

Articles 4 (Works of joint authorship) and 5 (Derivative Works)

The Committee unanimously adopted the texts proposed for these two Articles.

Article 6 (Works inspired by folklore)

The Working Group proposed that the author should retain the right to authorise uses of works inspired by folklore in the country in which the Act is applicable. It further proposed a definition for a work inspired by folklore.

In this connection, Mr. H'ssaïne (Morocco) suggested that this definition should indicate that elements belonging to the African cultural heritage may only be used to a certain extent, e. g. "for the most part".

The Committee did not accept this suggestion.

The Chairman and Mr. Amon d'Aby (Ivory Coast) pointed out that folklore should not be limited to musical works but could also refer, for instance, to stories or choreography. The Committee unanimously agreed that works inspired by folklore should include any work composed with the aid of elements which belong to the African cultural heritage.

Mr. Dodoo (Ghana) requested that the word "traditional" should be inserted before the words "cultural heritage".

The text, thus amended, was adopted unanimously by the Committee.

Article 7 (Moral right)

The Working Group proposed two provisions granting certain rights of a moral order to the author.

Mr. H'ssaïne (Morocco) indicated that he would have preferred, as a matter of form, that these provisions should appear immediately after Article 1.

Mr. Dodoo (Ghana) proposed that the second paragraph of this Article should be deleted on the grounds that compliance with the provisions it contains falls within the province of common law.

However, when the Chairman had pointed out that this was a matter which States could settle in the light of their own legal system, Mr. Dodoo did not insist on putting his amendment to the vote.

The Committee then adopted unanimously the proposed text.

Article 8 (Limitations on copyright concerning the right of communication to the public and personal use)

The Working Group proposed that the author should not be entitled to prohibit communications of his work if they are private and free of charge, or if they are made for educational purposes or at religious services; nor should he be able to prohibit reproductions, translations and adaptations destined exclusively for personal and private use.

It was stressed that this was only a list of examples and it was agreed that the legislator was free to define the scope of these limitations.

The Committee adopted unanimously the proposed text.

Articles 9 (Quotations), 10 (Reproduction for educational purposes), 11 (Photographic reproduction for use of public libraries, documentation centres, scientific institutions, and educational establishments) and 12 (News articles)

The Committee adopted unanimously the text proposed by the Working Group.

Article 13 (Subordinate use of a work during a news report)

Mr. H'ssaïne (Morocco) asked that it should be made clear in the text proposed by the Working Group that reproduction and communication to the public may be made on condition that the user organisations have paid the authors' fees.

However, when the Chairman had explained the significance of this Article, the Committee adopted the text originally submitted to it.

Article 14 (Monuments and works of art located in public places)

The Committee adopted unanimously the text proposed by the Working Group, after Mr. H'ssaïne (Morocco) had drawn attention to the incidental nature of the inclusion of the works of plastic art and of architecture in the film or broadcast in question.

Article 15 (Ephemeral recordings)

The Working Group proposed that a broadcasting organisation should be able to reproduce a work by its own means and for the purpose of its broadcasts, provided that these reproductions are destroyed or rendered unusable after a maximum period of one year from the date on which they are first used.

Mr. Dodoo (Ghana) asked that, as to the provision concerned, the obligation to destroy the reproductions should be deleted. It was pointed out, however, that reproductions presenting an exceptional documentary character could be kept in official archives.

The period of use during which reproduction may freely be made has been fixed at one year in order to reach a compromise between the proposal of Mr. Dodoo (Ghana) raising the time-limit to two years and that of Mr. Nzekwu (Nigeria) reducing it to six months. Mr. Amon d'Aby (Ivory Coast) observed that the final decision as to the duration of this period rested with the Government concerned. In any case, this period did not run from the date on which the recording was made but from that on which the reproduction was first used.

The Committee then adopted unanimously the proposed text.

Article 16 (Licences for broadcasting)

In the text proposed by the Working Group concerning the licence to broadcast when the author is not represented by an organisation of authors admitted to function on the national territory, Mr. Dodoo (Ghana) requested that it be indicated that the organisation in question should be a local organisation.

However, after agreeing that the place for this request was preferably in Article 24, to which Article 16 refers, the Committee adopted the text of the Working Group, with one abstention, that of Mr. H'ssaïne (Morocco).

Articles 17 (Transfer of copyright), 18 (Scope of assignments), 19 (Transfer of the physical object) and 20 (Scope of transfers to broadcasting organisations)

The Committee adopted unanimously the texts proposed for these various Articles.

Article 21 (Cinematographic works)

The Working Group proposed that, unless otherwise stipulated, the producer of a cinematographic work should have the right to exploit or authorise the exploitation of the said work, this provision not being applicable, however, to musical works.

The Committee unanimously adopted this proposal and, at the request of Mr. Dodoo (Ghana), it was agreed that the producer is the individual person or legal entity who has taken the initiative in and responsibility for the making of the work.

Articles 22 (Duration of copyright) and 23 (Particular cases)

The Working Group proposed that copyright should exist for the life of the author and thirty years running from the date of his death, and that, in the case of works of collabora-

tion, the date of the death of the last surviving collaborator should be considered alone for the calculation of the term of protection.

It seemed to the African experts that the system based on the death of the author for the calculation of the term of protection was preferable to the system based on the date of the publication of the work. Consequently, they recommended unanimously that the term of protection should include the life of the author and a certain number of years after his death.

As to the determination of the number of years after the death of the author, the Committee chose to retain the average figure of 30 years, after receiving the following proposals: Mr. Dodoo (Ghana) and Mr. Nzekwu (Nigeria): 25 years; Mr. Diallo (Guinea): 30 years; Mr. Bikouta-Menga (Congo-Brazzaville), Mr. Amon d'Aby (Ivory Coast) and Mr. H'ssaïne (Morocco): 50 years; Mr. Jallah (Liberia): not less than 25 years and not more than 50 years. It seemed to the Committee that the solution to this problem should satisfy the requirements of African unity and that, as the figure chosen was not excessive, it was likely to meet with the approval of a great many legislators. However, it recognised that such a choice was somewhat arbitrary, but States remained free to solve the problem as they wished.

While accepting the term of 30 years, Mr. Dodoo (Ghana) asked, within the context of his amendment to Article 1, for it to be reduced to 20 years in the case of gramophone records, cinematographic works and broadcasts. The Committee preferred to abide by a general formula, however.

Mr. Nzekwu (Nigeria) recalled the terms of the Recommendation adopted by the African delegates at Brazzaville in connection with the forthcoming revision of the Berne Convention, in particular Article 7 of that Convention, and expressed the hope that the African countries which were parties to the Convention would obtain a reduction of the term of protection on that occasion. The Committee considered that this should be the subject of a special recommendation on its part.

Article 24 (Organisations of authors)

The Working Group proposed that the competent authority should designate the organisation or organisations of authors which are sufficiently representative, which may be admitted to function in the national territory under certain conditions, in order to assure the administration of the rights granted to authors.

Referring to the Brazzaville Recommendation advocating the creation of authentically African bodies, Mr. Dodoo (Ghana) proposed that the adjective "local" be inserted in front of the word "organisation".

The text, thus amended, was adopted by the Committee by four votes to two with one abstention, that of Mr. Amon d'Aby (Ivory Coast).

Mr. H'ssaïne (Morocco) indicated that he was opposed to this Article because of the particular conditions prevailing in his country by virtue of Article 9 of the Moroccan Constitution.

As for Mr. Amon d'Aby (Ivory Coast), after recalling the Brazzaville Recommendation requesting Unesco and BIRPI to assist in the creation of purely African bodies, he explained that his abstention was due to the fear that, as this Recommendation had not been put into effect, certain African States might find themselves confronted with grave difficulties in the absence of qualified senior officials to administer such bodies.

The representative of the Director-General of Unesco observed that this Organisation was ready and willing to offer assistance in this field to the States concerned, but that an explicit request to that end would have to be submitted beforehand. He quoted the example of the Democratic Republic of the Congo which had requested Unesco's assistance and had immediately obtained satisfaction.

The Director of BIRPI, for his part, pointed out that, like Unesco, his Organisation was prepared to help any African States requesting assistance.

Following these statements, Mr. Amon d'Aby declared himself in favour of the proposed text which was therefore adopted by the Committee, by five votes to two.

Article 25 (Copyright tribunal)

The Working Group proposed that it should be possible for the competent authority to set up a sort of copyright tribunal.

This proposal was accepted by the Committee, by six votes to one, that of Mr. H'ssaïne (Morocco) for the same reason as that given for Article 24.

Article 26 (Right of the author to resort to judicial authorities)

The Committee adopted unanimously the text proposed by the Working Group.

Article 27 (Importation of counterfeited works)

The Working Group proposed that the importation into the national territory of copies of a work which would constitute an infringement of copyright should be prohibited.

Mr. Dodoo (Ghana) considered that this provision would imply that the question might be dealt with under criminal law but he held that copyright should be a matter solely for civil law and accordingly requested that this Article be deleted.

This request was not granted and the Committee adopted, by six votes to one, the text which had been proposed.

Article 28 (Damages)

The Committee unanimously adopted the text proposed by the Working Group.

Article 29 (Criminal sanctions)

For the same reasons as those given in connection with Article 27, Mr. Dodoo (Ghana) requested that this Article be deleted.

However, the Committee accepted, by six votes to one, the text proposed by the Working Group.

Article 30 (Seizure, confiscation, destruction)

The Committee unanimously adopted the text proposed by the Working Group.

Article 31 (Applicability of the Act at the national level)

The Committee unanimously adopted the text proposed by the Working Group.

Article 32 (Applicability of the Act at the international level)

Having stressed the importance of the international aspects of copyright, Mr. Dodoo (Ghana) proposed that the application of the Act should be extended to works, persons and organisations designated by the competent authority.

This proposal was unanimously accepted by the Committee although its insertion may not be necessary in certain national legislations.

Article 33 (Coming into force)

The Committee accepted unanimously the text proposed by the Working Group.

Having thus completed the draft of the model copyright law for the use of the African States, the Committee went on to adopt a number of recommendations contained in a single Resolution.

At the close of the deliberations, the Chairman, on behalf of the Committee, thanked BIRPI and Unesco for their cordial welcome and the Swiss Government for facilitating the participants' entry into its territory. He also thanked the African experts for the work accomplished in a spirit of mutual comprehension and the Secretariat for its valuable practical assistance. In conclusion, he expressed the hope that the results of the work of the Committee would meet with a favourable reception among the Governments of the African States.

Professor G. H. C. Bodenhausen, Director of BIRPI, congratulated the Chairman on the competence and efficiency with which he had conducted the proceedings and the Afri-

can experts on their constructive attitude. Mr. Gomes Machado, representing the Director-General of Unesco, added his own congratulations and emphasised the importance of the work accomplished in pursuance of the Brazzaville Recommendation.

Then, Mr. Amon d'Aby (Ivory Coast) and Mr. Nzekwu (Nigeria) expressed in turn their satisfaction at the positive results achieved and the cooperation extended by the sponsoring Organisations. Finally, Maître Boutet, speaking on behalf of the Consultants, recalled that it was the characteristic of international relations to allow feelings to be expressed and at the same time to retain the memory of the broadness of the views set forth.

The Chairman, after again thanking all those present, closed the Committee's proceedings.

List of Participants

I. African Experts

Congo (Brazzaville)

Mr. Auguste Gandzadi, Procureur général près la Cour d'appel de Brazzaville et près la Cour suprême de la République du Congo.

Substitute:

Mr. Bikouta-Menga, Directeur des programmes à la Radio-Télévision congolaise.

Ghana

Mr. Joseph Amoo Dodoo, Assistant Secretary, Ministry of Information.

Guinea

Mr. Issa Ben Yacine Diallo, Direction des Affaires économiques, Ministère des Affaires étrangères.

Ivory Coast

Mr. François Amon d'Aby, Inspecteur des affaires administratives, Secrétariat d'Etat à l'Intérieur et à l'Information.

Liberia

Mr. Augustine D. Jallah, Director of Archives, Patents and Copyrights, Department of State.

Morocco

Mr. Abderrahim H'ssaïne, Délégué des droits d'auteur au Ministère de l'Information, Directeur général du Bureau marocain du droit d'auteur.

Nigeria

Mr. Onuora Nzekwu, Editor of the "Nigeria Magazine".

II. Intergovernmental Organisations Acting as Sponsors

BIRPI

Prof. G. H. C. Bodenhausen, Director.

Mr. Claude Masouyé, Counsellor, Head of Copyright Division.

UNESCO

Mr. Gomes Machado, Director of the Department of Cultural Activities.

M^{lle} Marie-Claude Dock, Copyright Section.

III. Consultants

Mr. Marcel Boutet, Lawyer, President of the International Literary and Artistic Association (ALAI).

Mr. Léon Malaplate, Secretary-General of the International Confederation of Societies of Authors and Composers (CISAC).

Mr. Georges Straschnov, Director of Legal Affairs of the European Broadcasting Union (EBU).

IV. Bureau of the Meeting

Chairman: Mr. Auguste Gandzadi (Congo-Brazzaville).

Vice-Chairman: Mr. Joseph Amoo Dodoo (Ghana).

Rapporteur: Mr. Issa Ben Yacine Diallo (Guinea).

V. Working Group

Messrs. Amon d'Aby (Ivory Coast), Abderrahim H'ssaïne (Morocco), Onuora Nzekwu (Nigeria).