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Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

Governing Bodies

Governing Bodies of WIPO and the Unions Administered by WIPO

Ninth Series of Meetings

(Geneva, September 25 to October 3, 1978)

Note *

During the ninth series of meetings of the Governing Bodies of the World Intellectual Property Organization (WIPO) and the Unions administered by WIPO, which took place in Geneva from September 25 to October 3, 1978, the following six bodies (hereinafter referred to as " the Governing Bodies ") held their sessions:

- WIPO Coordination Committee, twelfth session (9th ordinary)
- Paris Union Executive Committee, fourteenth session (14th ordinary)
- Berne Union Executive Committee, thirteenth session (9th ordinary)
- PCT Union Assembly, second session (1st ordinary)
- Hague Union Assembly, second session (1st extraordinary)
- Hague Union Conference of Representatives, second session (1st extraordinary).

The ninth series of meetings of the Governing Bodies was preceded by a ceremony celebrating the opening of the new WIPO Headquarters Building which was held on the evening of September 24, 1978, for the government delegations of the member States of the Governing Bodies.

Sixty-six States, members of WIPO, the Paris Union or the Berne Union, or of one or more of these, were represented at the ninth series of meetings. In addition, nine intergovernmental organizations sent observers. Further, six international non-governmental organizations were represented by observers at the session of the PCT Union Assembly during the discussions on matters of substance and interest to the said organizations.

The ninth series of meetings of the Governing Bodies was convened by the Director General of WIPO, Dr. Arpad Bogsch. The sessions of the Governing Bodies were opened in a joint meeting by the outgoing first Vice-Chairman of the WIPO Coordination Committee, Mr. Zenji Kumagai (Japan), acting as the Chairman of that Committee.

The WIPO Coordination Committee, the Paris Union Executive Committee, the Berne Union Executive Committee and the PCT Union Assembly each elected its officers at the beginning of its session. Each of the said Governing Bodies elected the following person, respectively, as its new Chairman: Mr. Göran Borggård (Sweden), Mr. Adhemar Bahadian (Brazil), Mr. Bogomil Todorov (Bulgaria) and Mr. Valentin Bykov (Soviet Union). A list of participants and all the officers of the Governing Bodies appears below.

Items on the agendas of the Governing Bodies which were common to two or more of the said Bodies were considered in joint meetings of the bodies concerned. In addition to the meetings of the Governing Bodies, groups of countries had informal consultations in separate meetings.

The main items discussed and the principal decisions taken by the Governing Bodies are reported on below.

Past Activities

The WIPO Coordination Committee, the Paris Union Executive Committee and the Berne Union Executive Committee reviewed and noted with approval the reports of the Director General which had been presented to the said Bodies and the activities of the International Bureau which had taken place since their last sessions in September/October 1977. The PCT Union Assembly did likewise as concerns the period since the entry into force of the Patent Cooperation Treaty (PCT) on January 24, 1978.

A number of delegations commended the Director General and the staff on the activities undertaken in execution of the program and on the full account of those activities which was given in the report of the Director General. That report was characterized as being of high quality and as reflecting the efficiency of the International Bureau and the efficacy of the Organization's activities. They expressed their particular satisfaction with the activities in the field of development cooperation and emphasized their importance, especially the following: the training program, in particular the organization of training courses in cooperation with the Governments of Austria and Spain and the *Centre d'études interna-*

* This Note has been prepared by the International Bureau on the basis of the documents of the sessions of the Governing Bodies.

tionales de la propriété industrielle (CEIPI) de l'Université de Strasbourg (Center for the International Study of Industrial Property (CEIPI) of the University of Strasbourg) and the grant of individual fellowships for training, an increasing number of which were being offered with the financial support of the industrial property offices; the preparation and publication in different languages of the model laws for developing countries and of surveys and other tools for planning reforms in industrial property legislation and administration; the advice and assistance to certain developing countries and to regional institutions of developing countries in the preparation of legislation dealing with industrial property, copyright and neighboring rights, and in the establishment or strengthening of their institutions, in particular, the building up of national collections of patent documents and the setting up of regional patent documentation and information centers; the holding of regional meetings and seminars which treated problems of current concern to developing countries, such as the use of technological information contained in patent documents, or which provided an opportunity to better understand the role of industrial property, copyright and neighboring rights in economic and social development and promoted the acceptance of international treaties in the fields of intellectual property.

The WIPO Coordination Committee noted the results of the Diplomatic Conference held in February/March 1978, at which the Geneva Treaty on the International Recording of Scientific Discoveries was adopted.

In the field of industrial property, the Paris Union Executive Committee noted the work accomplished by the Preparatory Intergovernmental Committee and its Working Groups on questions of special interest to developing countries and on inventor's certificates and noted that the Committee had established a Working Group to consider the question of conflict between an appellation of origin and a trademark. It also noted the preparatory work undertaken for the entry into force of certain treaties, including the meeting of the Interim Advisory Committee for the preparation of the entry into force of the Budapest Treaty on the International Recognition of Microorganisms for the Purposes of Patent Procedure, held in April 1978, and the meeting of the Interim Advisory Committee for the preparation of the entry into force of the Trademark Registration Treaty (TRT), held in February 1978. It further noted the results of the meeting of experts on the industrial property aspects of consumer protection held in July 1978, as well as of a number of other meetings, including those of the Committee of Experts set up under the Locarno Agreement Establishing an International Classification for Industrial Designs, which met in May 1978, and of the Temporary Working Group established by the Committee of Experts set up under the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks which met in October/November 1977 and in March 1978.

As concerns patent cooperation and information activities, a number of delegations highlighted the entry into force of the Patent Cooperation Treaty (PCT) and the commencement of operations under that Treaty on June 1, 1978. Particular importance was also attached to the work of the WIPO Permanent Committee on Patent Information which held its first session in January 1978 and to its Working Group on Planning which had been established by the Committee to advise it on the details of the objectives, tasks, program and working methods of the Committee and on the establishment of other working groups.

In the field of copyright and neighboring rights, a number of delegations expressed their satisfaction with the work carried out by the International Bureau and welcomed the initiative taken to explore the possibilities to enable more countries to become party to the Berne Convention for the Protection of Literary and Artistic Works, as reflected in the results of the meeting of the Group of Consultants that had met in June 1978, which had examined the question of the accession of the United States of America.

Financial Matters

The Governing Bodies concerned noted with approval the accounts of the International Bureau and the reports of the auditors on those accounts, as well as other information concerning finances in the year 1977.

The PCT Union Assembly adopted the financial regulations of the PCT Union, appointed the Government of the Swiss Confederation as auditors of the accounts of the PCT Union and agreed to postpone the question of the constitution of the working capital fund of the PCT Union until its ordinary session in 1982.

Relations with Organizations

Agreement with the European Patent Organisation (EPO). The WIPO Coordination Committee approved an agreement on the establishment of working relations and cooperation with the European Patent Organisation (EPO). The following States are members of the EPO: Belgium, France, Germany (Federal Republic of), Luxembourg, Netherlands, Sweden, Switzerland, United Kingdom (8).

Resolutions and Decisions of United Nations Bodies. The WIPO Coordination Committee noted with approval the activities performed or planned by the Director General in respect of the resolutions and decisions of the United Nations General Assem-

bly, adopted at its thirty-second session (September to December 1977), of the United Nations Economic and Social Council, adopted at its first and second regular sessions, 1978, and of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted at its meetings in August 1978.

Program and Budget for 1979

The main features of the program and budget for 1979, as established by the WIPO Coordination Committee and approved by the Executive Committees of the Paris and Berne Unions, are the following:

Development Cooperation Activities

The programs for development cooperation activities include the convening in March 1978 in Dakar (Senegal) of the two WIPO Permanent Committees for Development Cooperation (one related to industrial property and the other to copyright and neighboring rights).

The program for development cooperation related to industrial property, as such, calls for a working group to meet on the subject of the promotion of domestic inventive and innovative activity. A working group will also meet to study the technological information needs of users in developing countries and how to assist in meeting those needs through improved means of access to patent documentation. The recommendations of the working groups will be submitted to the WIPO Permanent Committee on Development Cooperation Related to Industrial Property. The program also calls for the completion of a survey, begun in 1977, of the functions, administration and role in the governmental structure of industrial property offices in selected developing and developed countries and its submission to the said WIPO Permanent Committee.

In respect of the new Model Law for Developing Countries on Inventions and Know-How, the WIPO Coordination Committee and the Paris Union Executive Committee approved the publication of Part I of that new Model Law, provided that its text is in complete conformity with the Stockholm Act of the Paris Convention and that information on possible provisions based on a revised text of the Paris Convention prepared during the work on its revision is furnished in the form of footnotes, annex, additional pages, or the like. The said Committees decided also that the remaining Parts of the Model Law should be submitted to the WIPO Permanent Committee for Development Cooperation Related to Industrial Property for comments prior to publication. It is expected that the Working Group on that new Model Law will meet again in March 1979. As concerns the new Model Law for Developing Countries on Marks and Trade Names, a working group will meet again, in June 1979, to review drafts of that Model Law, model regulations (or their outline) and explanatory notes (commentary), to be prepared by the International Bureau. Work will also continue on the preparation of guidelines for the organization of patent and trademark activities of industrial enterprises in developing countries and on the preparation of an industrial property glossary and manual for developing countries.

The program for development cooperation related to copyright and neighboring rights, as such, includes the continuation of the study of the legislative and institutional arrangements for the support of national authors of literary and artistic works, performers and other creative artists and the convening of a working group to consider action to encourage creativity in developing countries. The study on access to and dissemination of works and performances of foreign origin protected by copyright will be continued; in particular, replies to a questionnaire prepared jointly by the International Bureau and the Secretariat of the United Nations Educational, Scientific and Cultural Organization (UNESCO) will be submitted to a working group convened jointly by WIPO and Unesco. A study on the protection of folklore by copyright-type legal provisions will be undertaken also in cooperation with Unesco. Work will continue also in cooperation with Unesco on the preparation of a copyright glossary and manual for developing countries, with the International Bureau preparing and publishing the glossary and Unesco preparing and publishing the manual.

In both the fields of industrial property and copyright and neighboring rights, training will be offered to nationals of developing countries by means of fellowships and training courses, organized with the assistance of national industrial property and copyright offices. In addition, regional meetings and seminars will be organized in developing countries or regions to discuss and exchange experiences on various subjects of industrial property and copyright and neighboring rights.

The International Bureau will continue to provide expert services to assist national or regional authorities in developing countries in formulating or revising their legislation on industrial property or on copyright and neighboring rights, in establishing or strengthening national or regional institutions concerned with such matters, and in preparing plans for projects on such matters to be financed by the United Nations Development Programme (UNDP) or from other sources and to be carried out by WIPO.

Computer Software

The study concerning the possibility of setting up an international treaty providing in particular for the international deposit of computer software will continue. A group of experts will meet to consider that study.

Copyright and Neighboring Rights Activities

The main features of the program in the field of copyright and neighboring rights established by the Governing Bodies concerned are the following:

Development Cooperation Activities Related to Copyright and Neighboring Rights. See above.

Berne Union Executive Committee: Extraordinary Session. The WIPO Coordination Committee and the Berne Union Executive Committee recommended that the Director General convene the Berne Union Executive Committee in early 1979 to consider the draft of WIPO's triennial (1980 to 1982) program and budget in the fields of copyright and neighboring rights and in related matters, provided that the Director-General of Unesco convenes, at the same time and place, the Intergovernmental Copyright Committee established by the Universal Copyright Convention with a view to the holding of joint meetings by the two Committees.

Accession to the Berne Convention by Certain Countries. The Berne Union Executive Committee considered the report of a Group of Consultants which met in June 1978 to consider the domestic law of certain countries contemplating the possibility of acceding to the Berne Convention and, in particular, the compatibility with that Convention of the new Copyright Law of the United States of America. The Berne Union Executive Committee decided that consideration of the question of a possible Protocol to the Berne Convention to enable the United States of America to accede to that Convention should be placed on the agenda of its next session, scheduled for early 1979, and that, if it was decided at that session to pursue the matter further, the Committee should decide on the procedure to be followed until the 1979 session of the Berne Union Assembly.

Cable Transmission of Television Programs. In cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organisation (ILO) studies will continue on the copyright and neighboring rights problems arising from the transmission by cable of television programs to follow up on the 1978 recommendations of the subcommittees of the Berne Executive Committee, the Intergovernmental Copyright Committee and the Intergovernmental Committee of the Rome Convention. The studies will be submitted to the said three Committees at their sessions in 1979.

Audiovisual Cassettes and Discs. The report of the subcommittees of the Berne Union Executive Committee, the Intergovernmental Copyright Committee and the Intergovernmental Committee of the Rome Convention concerning problems arising from the use of audiovisual cassettes and discs and other similar devices will be submitted to the said three Committees at their sessions in 1979.

Electronic Computers. In cooperation with Unesco, the study of the copyright problems arising from the use of electronic computers and related facilities for access to or the creation of works will continue.

Copyright Law Survey. A summary of national legislation in the field of copyright will be published. This publication will be complementary to a comparative study of national copyright legislation to be published by Unesco.

Double Taxation of Copyright Royalties. A diplomatic conference will be convened jointly with Unesco in November/December 1979 in Madrid (Spain) to adopt a multilateral treaty along with a model bilateral agreement for the avoidance of double taxation of copyright royalties.

Administration of Rights under the Rome Convention. In cooperation with ILO and Unesco, the study concerning experience in the administration of the rights provided for by the Rome Convention, money collected and distributed, the incidence of piracy and relevant case law will continue. A subcommittee of the Intergovernmental Committee of the Rome Convention is expected to meet in 1979 and make recommendations to that Committee.

Distribution of Programme-Carrying Signals Transmitted by Satellite. In cooperation with Unesco, work will continue on the preparation of draft model provisions for the implementation of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite. A committee of experts is expected to meet in 1979 to examine and advise on the recommendations made by a working group which met in 1978.

Publications. The program for the year 1979 also provides for the usual tasks relating to the existing publications in the field of copyright and neighboring rights, in particular the monthly review *Copyright/ Le Droit d'auteur* and the collection of laws and treaties on copyright and on neighboring rights.

The *Guide to the Berne Convention,* the original French and an English version of which have already been published by WIPO, will also be published in Arabic and Spanish in 1979; arrangements are being made to publish this Guide in the German, Japanese, Portuguese and Russian languages.

The quarterly review *La Propiedad Intelectual* will be modified to take the form of a newsletter which will be published in smaller but more frequent issues.

Industrial Property Activities

The main features of the program and budget for the year 1979 in the field of industrial property approved by the Paris Union Executive Committee are set forth in the December 1978 issue of *Industrial Property*.

Budget

The Governing Bodies concerned adopted the budgets for 1979 corresponding to the programs outlined above.

The budgets of WIPO and the Unions administered by WIPO which relate to the calendar year 1979 show an expected income of 27,312,000 Swiss francs and an expected expenditure of 27,613,000 Swiss francs. The number of staff posts covered by the budgets for the year 1979 is 202.

Administrative Matters

Budget Cycles; Program Priorities and Program Evaluation. The WIPO Coordination Committee decided, upon the recommendation of the WIPO Budget Committee, that the Director General should prepare for the 1979 sessions of the WIPO Budget Committee and Governing Bodies not only a triennial (1980 to 1982) program and budget but also give indications as to the plan envisaged for the subsequent three-year period (1983 to 1985). In addition, the WIPO Coordination Committee and the Executive Committees of the Paris and Berne Unions decided, upon the recommendation of the WIPO Budget Committee, that the WIPO Permanent Committees and any other committee or working group making proposals for the program should recommend priorities among such program proposals and indicate, in respect of any proposed new activity, its objectives, its expected duration and possible need for additional staff and other additional expenses. The WIPO Coordination Committee decided also, upon the recommendation of the WIPO Budget Committee, that consideration be given in the next triennial program to the advisability of carrying out an evaluation of the attainment, in actual fact, of the objectives set in that program and asked the Director General to prepare a report on the matter.

Nomination of Candidate for Appointment by the WIPO General Assembly to the Post of Director General. The WIPO Coordination Committee decided, upon the proposal of the Delegation of the United States of America, supported by the delegations of a great number of States, to nominate, unanimously and by acclamation, Dr. Arpad Bogsch for appointment by the General Assembly of WIPO for a further period of six years as Director General of WIPO.

Staff Matters. The WIPO Coordination Committee noted the information on the composition of the International Bureau and the progress made by the Director General to improve the geographical distribution of the staff in both the professional and higher categories. On September 1, 1978, the staff of the International Bureau comprised 192 persons, nationals of 42 different countries.

Agendas of the 1979 Sessions: Working Languages. The WIPO Coordination Committee decided that the question of the use of Arabic, Portuguese, Russian and Spanish as working languages of the Organization should be placed on the agendas of the 1979 sessions of the Committee and of the Assemblies and Executive Committees of the Paris and Berne Unions. The WIPO Coordination Committee and the Executive Committees of the Paris and Berne Unions decided also that a number of items, proposed by the Director General, should be included in the draft agendas of the 1979 sessions of the WIPO General Assembly, the WIPO Conference, the Paris Union Assembly and the Berne Union Assembly.

List of Participants **

I. States

Algeria: H. Bouhalila. **Argentina** [3, 7]: G. O. Martinez; F. Jimenez Dávila; C. A. Passalacqua. **Australia** [1, 6]: F. Smith; H. Freeman. **Austria** [1, 6]: O. Leberl; M. Sajdik. **Bangladesh:** M. Hossain. **Belgium** [1, 6]: G.-L. de San; J. Degavre; J. H. de Bock. **Brazil** [1, 4, 8]: U. Quaranta Cabral; A. G. Bahadian. **Bulgaria** [1, 6]: B. Todorov; Kr. Iliev; G. Nastev. **Byelorussian SSR:** N. Grinev. **Cameroon** [8]: D. Ekani. **Canada** [1, 6]: D. E. Bond; R. Théberge; M. R. Leir. **Chile:** J. Lagos. **Colombia:** M. Botero. **Costa Rica:** M. Quiros-Guardia; M. Odio-Benito. **Czechoslovakia** [1, 4]: M. Bělohlávek; J. Prošek; G. Kaňka; J. Čížek. **Denmark** [8]: K. Skjødt; D. Simonsen. **Egypt** [10]: F. El Ibrashi; T. Dinana. **Ecuador:** M. A. Game Muñoz; P. Yánez. **El Salvador:** N. R. Monge López; C. A. Barahona Rivas. **Finland:** E. Tuuli; R. Meinander; A. H. Risku. **France** [1, 4, 8, 9]: G. Vianès; A. Françon; R. Richard; L. Nicodème; H. Vial; J. Buffin; R. S. Leclerc; A. Némo; G. R. Yung. **Gabon** [8]: M. Nzue Nkoghe; R. Jaffres. **German Democratic Republic** [1, 4, 10]: D. Schack; O. Maiwald; M. Förster. **Germany (Federal Republic of)** [1, 4, 8, 9]: A. Krieger; E. Haeusser; E. Steup; U. C. Hallmann; G. Wirth; A. Mühlen; S. Gees. **Ghana** [1, 4]: E. Vanderpuye. **Holy See** [10]: O. J. Roullet. **Hungary** [1, 6]: E. Tasnádi; A. Benárd; A. Eröss. **India** [1, 6]: S. Singh; S. Sabharwal. **Indonesia** [10]: M. Sidik. **Iran:** Y. Madani. **Iraq** [1, 4]: Y. Al-Khanaty; G. A. Rafik. **Ireland** [1, 4]: J. Quinn. **Israel:** M. Gabay. **Italy** [3, 7]: I. Papini; A. Sinagra; M. Cerallo; G. Fonzi; U. Sessi; M. F. Pini. **Ivory Coast** [1, 6]: G. Doh; C. Bouah; A. Ouattara; B. T. Aka; K. Kassi. **Japan** [1, 4, 8]: Z. Kumagai; K. Yoshihisa; T. Yoshida; K. Kujirai; Y. Oyama; K. Hatakawa. **Kenya:** D. J. Coward. **Libyan Arab Jamahiriya** [1, 4]: A. Embark. **Liechtenstein** [9]: A. F. de Gerliczy-Burian. **Luxembourg** [8]: J.-P. Hoffmann. **Madagascar** [8]: S. Rabearivelo. **Mauritius:** H. M. Joomun. **Mexico** [1, 6]: I. Otero Muñoz; F. Riva Palacio; V. Blanco Labra; M. F. Ize de Charrin. **Morocco** [1, 6, 10]: A. Kandil **Netherlands** [10]: J. Dekker; E. van Weel; H. J. G. Pieters; F. P. R. van Nouhuys. **Nigeria** [3, 5]: F. J. Osemekeh. **Norway:** A. G. Gerhardsen; S. H. Røer. **Pakistan:** A. Hashmi. **Philippines** [3, 5]: H. J. Brillantes; J. L. Palarca; D. T. Wendam. **Poland** [3, 7]: J. Szomański; A. Olszówka; E. Szelchauz; B. Rokicki. **Portugal:** A. de Carvalho; J. Van-Zeller Garin; A. M. Pereira; R. Serrão; J. Mota Maia. **Romania** [1, 4]: G. Filipas; V. Tudor; R. Bena. **Senegal** [8]: A. Diarra; J. P. Crespin. **Soviet Union** [1, 4, 8]: V. Bykov; V. F. Zubarev; L. Tchobanian; S. Egorov. **Spain** [1, 6, 10]: A. Villalpando Martínez; E. Rua Benito; L. García-Cerezo. **Sri Lanka** [1, 6]: K. Breckenridge. **Sudan** [2]: Z. Sir El-Khatim; A. A. Osman; F. Talaat. **Sweden** [1, 4, 8]: G. Borggård; C. Uggla; B. van der Giessen. **Switzerland** [1, 4, 6, 8, 9]: P. Braendli; J.-L. Marro; M. Jeanrenaud; J.-M. Salamolard; D. Eckmann. **Tunisia** [1, 6, 10]: B. Fathallah; A. El Fazaa. **United Kingdom** [1, 4, 8]: I. J. G. Davis; V. Tarnofsky; E. F. Blake; D. H. Cecil. **United States of America** [1, 4, 8]: D. W. Banner; H. J. Winter; P. Keller; M. K. Kirk; L. J. Schroeder; S. Steiner. **Uruguay:** J. J. Real; C. Nadal. **Yugoslavia:** D. Bošković; D. Ćemalović; D. Strujić; M. Adanja. **Zaire:** L. Elebe. **Zambia** [1, 4]: A. R. Zikonda.

II. Intergovernmental Organizations

United Nations (UN): T. S. Zoupanos; V. Lissitsky. **International Labour Organisation (ILO):** S. C. Cornwell. **United Nations Educational, Scientific and Cultural Organization (UNESCO):** A. Amri. **Benelux Trademark Office — Benelux Designs Office:** L. van Bauwel. **African Intellectual Property Organization (OAPI):** D. Ekani; K.-A. Johnson. **European Patent Organisation (EPO):** J. B. van Benthem; J. C. A. Staehelin. **Commission of the European Communities (CEE):** C. Dufour. **Secretariat of the Interim Committee for the Community Patent:** J.-F. Faure; K. Mellor. **Council for Mutual Economic Assistance (CMEA):** I. Tcherviakov.

III. Officers

WIPO Coordination Committee

Chairman: G. Borggård (Sweden); *Vice-Chairmen:* A. Benárd (Hungary); Y. Al-Khanaty (Iraq).

Paris Union Execntive Committee

Chairman: A. Bahadian (Brazil). *Vice-Chairmen:* J. Quinn (Ireland); M. Bělohlávek (Czechoslovakia).

Berne Union Execntive Committee

Chairman: B. Todorov (Bulgaria). *Vice-Chairmen:* A. Kandil (Morocco); D. Bond (Canada).

PCT Union Assembly

Chaiman: V. Bykov (Soviet Union). *Vice-Chairmen:* M. Nzue Nkoghe (Gabon); P. Braendli (Switzerland).

Hague Union Assembly

Chairman: P. Braendli (Switzerland). *Vice-Chairmen:* J.-M. Notari (Monaco); A. de Gerliczy-Burian (Liechtenstein).

Hague Union Conference of Representatives

Chairman: M. Chraïbi (Morocco). *Vice-Chairman:* J. Hemmerling (German Democratic Republic).

Secretary General: G. Ledakis (WIPO).

IV. International Bureau of WIPO

A. Bogsch *(Director General)*; K. Pfanner *(Deputy Director General)*; K.-L. Liguer-Laubhouet *(Deputy Director General)*; F. A. Sviridov *(Deputy Director General)*; G. Ledakis *(Legal Counsel)*; M. Pereyra *(Director, Administrative Division)*; M. Porzio *(Director, Office of the Director General)*; S. Alikhan *(Director, Copyright Division)*; L. Baeumer *(Director, Industrial Property Division)*; P. Claus *(Director, Patent Information Division)*; R. Harben *(Director, Division for Industrial Property Development Cooperation Projects)*; L. Egger *(Head, International Registration Division)*; I. Grandchamp *(Head, Languages Section)*; E. M. Haddrick *(Head, PCT Division)*; P. Howard *(Head, Personnel Section)*; A. Jaccard *(Head, Finance Section)*; M. Lagesse *(Head, Budget and Systems Section)*; F. Moussa *(Head, External Relations Section)*; I. Thiam *(Head, Development Cooperation Section)*; L. Kadirgamar *(External Relation Officer, External Relations Section)*; I. Pike-Wanigasekara *(Assistant, Office of the Director General)*; M. Qayoom *(Head, Conferences and Common Services Section)*; H. Rossier *(Head, Mail and Documents Section)*.

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

[1] Ordinary member of the WIPO Coordination Committee.

[2] Ad hoc member of the WIPO Coordination Committee.

[3] Associate member of the WIPO Coordination Committee.

[4] Ordinary member of the Paris Union Executive Committee.

[5] Associate member of the Paris Union Executive Committee.

[6] Ordinary member of the Berne Union Executive Committee.

[7] Associate member of the Berne Union Executive Committee.

[8] PCT Union Assembly.

[9] Hague Union Assembly.

[10] Hague Union Conference of Representatives.

World Intellectual Property Organization

Accessions to the WIPO Convention

MONGOLIA

The Government of the Mongolian People's Republic deposited, on November 28, 1978, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with respect to the Mongolian People's Republic, three months after the date of deposit of its instrument of accession, that is, on February 28, 1979.

WIPO Notification No. 102, of November 29, 1978.

REPUBLIC OF KOREA

The Government of the Republic of Korea deposited, on December 1, 1978, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with respect to the Republic of Korea, three months after the date of deposit of its instrument of accession, that is, on March 1, 1979.

WIPO Notification No. 103, of December 5, 1978.

Berne Union

Subcommittees of the Executive Committee of the Berne Union and of the Intergovernmental Committee of the Universal Copyright Convention on Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs

(Paris, September 13, 14 and 19, 1978)

Report

submitted by the Secretariats and adopted by the Subcommittees

I. Introduction and Participation

1. The Subcommittee of the Intergovernmental Committee of the Universal Copyright Convention and the Subcommittee of the Executive Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) on the Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs (hereinafter referred to as the " Subcommittees ") met in Paris on September 13, 14 and 19, 1978.

2. The meetings of the Subcommittees were convened pursuant to the decisions taken by the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention, at their sessions held in Paris in November/December 1977 in order to look for solutions which might be offered to national legislators on the basis of the recommendations made by the Working Group which met in Geneva from February 21 to 25, 1977, to study the problems referred to above (hereinafter referred to as " the 1977 Working Group ").

3. Eight States members of the Subcommittee of the Executive Committee of the Berne Union (Belgium, Canada, Hungary, Italy, Mexico, Morocco, Switzerland, Tunisia) and eleven States members of the Subcommittee of the Intergovernmental Committee of the Universal Copyright Convention (Brazil, France, Israel, Italy, Japan, Mexico, Netherlands, Senegal, Tunisia, United Kindgom, United States of America) were represented at the meetings. Seven States party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) (Colombia, Czechoslovakia, Denmark, Ecuador, Luxembourg, Norway, Sweden) were represented by observers.

4. Two intergovernmental organizations (International Labour Office (ILO), Arab Educational, Cultural and Scientific Organization (ALECSO)) and thirteen international non-governmental organizations (European Broadcasting Union (EBU), International Bureau of the Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Confederation of Professional and Intellectual Workers (CITI), International Confederation of Societies of Authors and Composers (CISAC), International Copyright Society (INTERGU), International Federation of Actors (FIA), International Federation of Film Distributors Associations (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Federation of Producers of Phonograms and Videograms (IFPI), International Literary and Artistic Association (ALAI), International Music Council (IMC), International Writers Guild (IWG)) were represented by observers. Professor Franca Klaver of the University of Amsterdam, also attended the meeting as a consultant to the Secretariats.

5. The list of participants is contained in Annex II to this report.

II. Opening of the Meetings

6. The meetings were opened by Miss Marie-Claude Dock, Director, Copyright Division, Unesco, who welcomed the participants on behalf of the Director-General of Unesco and made a brief statement to trace the background of the study of the problems involved. Mr. Claude Masouyé, Director, Copyright and Public Information Department, WIPO, also welcomed the participants on behalf of the Director-General of WIPO.

III. Election of the Chairman

7. On a proposal by the delegation of France, supported by the delegations of Senegal, Sweden, Switzerland and Tunisia, Ms. Barbara Ringer, Head of the delegation of the United States of America, was elected Chairman.

IV. Adoption of the Agendas

8. The Subcommittees adopted their agendas contained in document B/EC/SC.1/VAD/1 prov.-IGC/SC.1/VAD/1 prov.

V. Introduction of Documentation

9. The Secretariats recalled that, since the 1975 sessions of the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention, States and interested organizations had been both consulted and invited to report on their experiences and comments concerning the legal problems arising from the use of videocassettes and audiovisual discs. The Secretariats had, with the help of a consultant, presented a study of the problems which were examined by the 1977 Working Group. The report of this Working Group was presented to the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Committee at their sessions held in November/December 1977. These Committees decided to constitute Subcommittees, and with a view to preparing the documentation for the present meetings, the Secretariats had invited comments from States and organizations on the basis of the report by the 1977 Working Group. These comments, as also an analysis thereof by Professor Franca Klaver in her capacity as consultant, together with a summary of the questions for discussion prepared by her, have already been circulated for consideration to the delegates attending the present meetings.

10. Introducing her study (document B/EC/SC.1/VAD/4-IGC/SC.1/VAD/4), Professor Klaver pointed out that the Subcommittees should focus their attention on the questions raised by the practical application of the provisions contained in national legislations and international conventions, on the basis of the information provided in the report of the 1977 Working Group and the above-mentioned comments from States and international non-governmental organizations, as well as in the studies made for the 1975 sessions of the Copyright Conventions Committees and the present Subcommittees. In addition, she expressed the view that the solutions which would emerge, although they had no binding or compulsory force for legislators, could be a persuasive guide for them.

VI. General Debate

11. Before inviting the participants to make general comments, the Chairman pointed out, as a preliminary matter, that, while the competence of the Subcommittees related only to the copyright implications of the use of videocassettes and audiovisual discs, the questions raised by such use involved a wide range of inseparable interests and were therefore broad enough to justify a general discussion.

12. The participants unanimously paid tribute to the work carried out by the specialists who, at the invitation of the Directors-General of Unesco and WIPO, had met at Geneva in February 1977. They considered that the report on the meeting constituted a relevant, comprehensive and highly useful document.

13. The Subcommittees confirmed the conclusions reflected in the report of the 1977 Working Group (document UNESCO/WIPO/VWG/I/8). They recalled, *inter alia*, that this new dissemination technique:

(i) did not call for a revision of the Berne Convention or the Universal Copyright Convention, since the provisions contained in these multilateral Conventions left national legislators enough scope to legislate on the subject in the light of the socio-economic context of their own countries;

(ii) did not necessitate the preparation of a new international instrument, and that the possibility available under Article 20 of the Berne Convention to conclude special agreements could not be invoked since the specific purpose in this case was not to recognize more extensive rights but to regulate the possible exceptions permitted under the said Convention;

(iii) required, however,. the establishment of a typology of specific situations, with their legal implications, and a list of considerations which could serve as a basis for solutions that would make it possible to alleviate the consequences of the development of new techniques in the audiovisual field.

14. The Subcommittees forcefully stressed the urgency of identifying practical measures, in the light of the considerable harm already suffered by the various copyright holders whose interests are involved in the use of their works or performances in audiovisual cassettes or discs. They pointed out that this harm was bound to grow worse, since the equipment placed on the market at a constantly declining cost increased the number of users and consequently of recordings made. It was also pointed out that these practices did not solely harm the interests of copyright holders but were liable to affect the activities of the phonographic industry, the cinematographic industry and television organizations. Developments in this respect were regarded as alarming, in particular because markets might suffer or even disappear through a decrease in sales and the difficulty of amortizing products, which were bound to result from the gradual replacement of other dissemination processes by audiovisual cassettes and discs. By reducing outlets for industries disseminating works of the mind, the endless multiplication of recording capacity might jeopardize the legitimate income of the creators of such works and consequently intellectual creation itself. It was further stressed that the use of videograms to supply programmes for cable distribution systems or closed-circuit television (hotels,

hospitals, ships, planes, etc.) was liable to increase this process.

15. The Subcommittees also expressed concern at the generalization of the pirating phenomenon which was tending to develop all the more rapidly in that it often met with a favorable response from public opinion. Thus it appeared not only that legal measures were required, but that governments and public opinion itself should be alerted to the consequences of such acts. To this end it was suggested that an information campaign should be carried out, in particular by Unesco and WIPO.

16. On the conclusion of the general debate, the Chairman, summing up the statements, noted that, while fully endorsing the conclusions of the 1977 Working Group, the Subcommittees should inquire more deeply into certain situations and define conditions for the use of audiovisual cassettes and discs, including private and educational use.

17. In addition, the Subcommittees considered that the observations and conclusions of the 1977 Working Group, together with those resulting from the present deliberations, should be understood to apply not only to the audiovisual field but also to sound recordings.

VII. Terminology

18. Before taking up the above-mentioned subjects, the Subcommittees examined the terminology proposed by the 1977 Working Group.

19. According to this, the term " videogram " would mean both the material support for any sequence of images and sounds and the actual fixation of the sequence, irrespective of the legal status afforded under copyright or neighboring rights to the sequence incorporated in the support. Moreover, the term " videocopy " would designate the reproduction of a pre-existing work, and the term " videographic work " would refer to a work specially made for fixing on a videogram.

20. Since the term " videogram " could be interpreted as applying to the recording or fixation of images only, whereas the terminology should cover not just the image but also the sound, the delegation of Mexico proposed that the term " videophonogram " should be used (document B/EC/SC.1/VAD/DR.1-IGC/SC.1/VAD/DR.1).

21. While recognizing the value of this proposal on purely etymological grounds, the Subcommittees nevertheless considered that the term " videogram " was now generally accepted as covering both images and sounds, that it would not be desirable to modify this terminology which is in general use, and that what ultimately counted was the actual definition of the term.

22. In this connection, it was pointed out that the definition proposed by the 1977 Working Group had the drawback of being identical with that of a cinematographic film and that it should be made more precise in order to avoid confusion.

23. At the end of the debate on this subject, on the basis of several proposed texts, the Subcommittees finally expressed a preference for the definition suggested by the 1977 Working Group, including a reference to videodiscs and videocassettes in order to illustrate the material support.

24. The Subcommittees then adopted the following definition of the videogram: both videodisc, videocassette or other analogous material support for any sequence of images with or without sounds and the actual fixation of the sequence.

25. In addition, the Subcommittees accepted without change the definitions proposed by the 1977 Working Group for the terms " videocopy " and " videographic work. "

VIII. Private Use

26. It was asked whether distinctions should be drawn within the concept of private use, whether certain recordings might be considered as not conflicting with a normal exploitation of the work, in accordance with the terms of Article 9(2) of the Berne Convention.

27. While recognizing that certain recordings could be made in good faith, at home, and that such activity was not to be compared with the offerings for sale of illicitly made copies, the Subcommittees considered that the owners of the rights did in every case suffer a loss which, if it could not be avoided, should at least be mitigated.

28. It was pointed out, on the other hand, that the above-mentioned provisions of the Berne Convention determining the limits of exceptions to the right of reproduction were drawn up largely with reprography processes in mind, and that the situation under review was markedly different, in that the equipment necessary to make reprographic reproductions was not as commonly found in homes as the equipment for making sound or sound and vision recordings.

29. It was noted, in this connection, that the provisions of multilateral copyright Conventions concerning the right of reproduction and the right of public performance, as well as the conclusion of the appropriate contracts between the various groups involved, made it possible to settle the problems connected with the making of audiovisual cassettes and discs and their use outside the sphere of private use, and that the main difficulty lay in the delimitation of the latter and in the absolute necessity of determining ways of compensating the owners

of the rights. The opinion was expressed that the international Conventions did not contain any provisions which expressly forbade private use as such, and that it could be deduced from this that such use was tolerated. However, owing to the fact that it was not possible to control such use while at the same time respecting individual privacy and the inviolability of the home, it was considered that this tolerance was in any case prejudicial to the authors, and *a fortiori* when recordings made by an individual for his own use were circulated outside the family circle.

30. It appeared that compensation should be arranged for the owners of the rights, and reference was made to the system established by Article 53(5) of the Federal Republic of Germany's copyright law of 1965, [1] which instituted a charge based on the sales price of recording equipment. It was emphasized that this charge was not to be considered as a tax or para-fiscal levy, but as compensation due to the owners of exclusive rights to offset their inability to exercise such rights.

31. It was asked whether the system in force in the Federal Republic of Germany should be extended to the various material supports on which sequences of images or images and sounds could be fixed, or apply solely to these supports and not to recording equipment. Reference was made in this connection to the draft legislation now under consideration in Austria, providing for the right to equitable remuneration incorporated in the sales price of blank material supports.

32. The Subcommittees expressed the opinion that the institution of a charge, both on recording equipment and the supports, would be likely to provide the best compensation for the prejudice caused.

33. Fears were expressed that any kind of levy, whether on recording equipment, material support or both, might be considered legalization of piracy, the user considering that in this way he had been authorized to use the said equipment and supports as he wished and to circulate the recorded copies without restriction. The wish was therefore expressed that the concept of private use be strictly defined and delimited before instituting a system to alleviate the harm suffered by copyright holders.

34. The Subcommittees reached the conclusion that, in view of the lack of technical means of preventing large numbers of uncontrolled recordings, the establishment of such a system should be recommended, this system consisting of a lump-sum charge on the sales price of recording equipment and material supports and being intended to compensate all the professional groups whose interests were at stake. It was further specified that, although this levy was intended to offset the consequences of private use, it should not be taken as meaning that the various persons concerned would be deprived of the normal exercise of rights which they might be recognized as having by international conventions and national laws and contracts, to the extent that such exercise was possible.

35. This system had the further advantage of respecting the freedom of the private user, for whom the financial burden would, according to some speakers, be minimal. This solution also had the merit of simplicity, in that the compensatory amounts would be collected not from individuals but from the manufacturers of equipment and supports or the importers thereof.

36. As far as the collection of the charges was concerned, it was hoped that the intervention of several bodies, each representing a different category of interested parties, could be avoided and that efforts would be made to concentrate these operations within a single body. Attention was of course drawn to the difficulties of such concentration, as of the distribution of the sums collected among the different categories of owners of rights. In this respect, the Subcommittees expressed the wish that Unesco and WIPO would be able to collect all possible information on the way in which the system established by the above-mentioned law of the Federal Republic of Germany was currently being applied, on any possible amendments which might be made to it and on the draft legislation at present under consideration in Austria.

IX. Use for Teaching Purposes

37. The Subcommittees were fully aware of the importance of this method of utilizing videograms, which is becoming increasingly widespread. Indeed it is no longer a question of isolated cases of the use of educational material, with the recording by teachers of occasional broadcasts for the needs of their classes, but the constitution of actual centers for the production of videograms to be used by establishments providing school or university education, whether such centers come under school or university administration or not.

[1] This provision is as follows:

(5) If from the nature of the work it is to be expected that it will be reproduced for personal use by the fixation of broadcasts on visual or sound records, or by transfering from one visual or sound record to another, the author of the work shall have the right to demand from the manufacturer of equipment suitable for making such reproductions a remuneration for the opportunity provided to make such reproductions. Any person who for commercial purposes introduces or re-introduces such equipment within the jurisdiction of this Act shall be jointly responsible with the manufacturer. This right shall not exist if, from all of the circumstances, it appears probable that the equipment will not be used within the jurisdiction of this Act for the said purposes. This right may only be enforced through collecting societies. By way of remuneration, each copyright owner shall be entitled to an equitable participation in the proceeds realized by the manufacturer from the sale of such equipment; the total claims of all copyright owners, including those coming within Articles 84 and 85, paragraph (3), and Article 94, paragraph (4), shall not exceed five percent of such proceeds.

38. It was noted that in this area the utilization of works could be checked more easily than in the case of reproductions made by people in their homes, and that accordingly the solutions to be applied in this instance should differ from those relating to private use. Reference was made in this connection to standards of fair use or, again, the system of licenses.

39. Mention was made of the provisions of Article 10(2) of the Berne Convention and Article IV^{bis}.2 of the Universal Convention; the Subcommittees confirmed the considerations set out on this subject by the 1977 Working Group. However, as regards reference to the Tunis Model Law on Copyright for Developing Countries, it was stressed that Article 7(i)(c) thereof was based, with respect to its first part, on the aforementioned provision of the Berne Convention concerning the use of works by way of illustration in teaching and, secondly, on the systems of licenses for the audiovisual reproductions of lawfully made audiovisual fixations for which provision is made in the Appendix to the Paris Act (1971) of this Convention and the revised 1971 text of the Universal Convention. In the former case, the exception to copyright could relate to only a part of the work used as an illustration in teaching, on the understanding that the publication, broadcast or sound or visual recording in which the work was used as an illustration had itself been produced solely for teaching purposes. In the latter case, the audiovisual fixation must have been designed and published solely for the purpose of systematic instructional activities.

40. As regards the interpretation to be placed on the words " systematic instructional activities," it was recalled that, when the above-mentioned Conventions had been revised in 1971, it had been made clear that these expressions referred not only to instructional activities at all levels in tutorial institutions, primary and secondary schools, colleges and universities, but also to a wide range of organized educational activities intended for participation at any age level and devoted to the study of any subject.

41. The attention of the Subcommittees was also drawn to the situations which might result from the utilization of videograms for archival purposes, whether by television bodies, libraries, school or university establishments, centers set up specially for this purpose, or private individuals.

42. Generally speaking, as regards the use of videograms for teaching purposes, the Subcommittees endorsed the desire expressed by the 1977 Working Group that the conditions under which exceptions to the exclusive right could be admitted should be specified in detail and that, within the relevant limits set by multilateral copyright conventions, such exceptions should not have an adverse effect either on creative activity or on the normal use of videograms. In this context it was noted that the situations created by educational needs, and the means of coping with them, varied to such an extent from one country to another that it was not possible to formulate any set of uniform guiding principles for the utilization of videograms for teaching purposes.

43. At the conclusion of their deliberations the Subcommittees requested the Secretariats to draw up, for consideration by national legislators, an inventory of the situations they had taken into consideration in their examination of the copyright problems raised by the utilization of videograms, together with such solutions as they had recommended. This inventory is contained in Annex I to this report, of which it is an integral part.

44. Bearing in mind the need, stressed during discussion, to alert the competent authorities as soon as possible to the problems raised by the utilization of videograms, and with a view to developing awareness of the existence of these problems, not only among the circles concerned but also among users, the Subcommittees expressed the wish that the present report, which would be submitted to the 1979 sessions of the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention, should immediately be given wide circulation among States and organizations. They also suggested that, after consideration by the aforementioned Committees, a full set of documents should be constituted and published, including, among other papers, all the studies prepared by Professor Klaver and the report of the 1977 Working Group.

45. The Subcommittees, noting:

(i) that most of the problems they had examined concern not only copyright but also the so-called neighboring rights;

(ii) that the meeting of the Subcommittee of the Intergovernmental Committee of the Rome Convention, to be held immediately after their own meeting, would consist largely of the same participants, in their capacity as delegates or observers, as the case might be; and

(iii) that that Subcommittee would also have to consider some questions which they had already discussed,

expressed the hope that in future, when specific subjects were to be studied, the bodies which would be appointed for that purpose by the Copyright Conventions Committees would be convened at the same time as their counterpart bodies set up by the Intergovernmental Committee of the Rome Convention.

X. Closing of the Meetings

46. After the customary expression of thanks, the Chairman declared the meetings closed.

ANNEX I

Inventory of Problems

adopted by the Subcommittees appointed to study the legal aspects in relation to copyright of the use of videocassettes and audiovisuals discs (Subcommittees established by the Executive Committee of the Berne Convention and the Intergovernmental Committee of the Universal Copyright Convention — Paris, September 1978)

A. *Terminology*

As stress is to be laid on the material support which comprises the sequences of images and sounds, in order to distinguish it from the intellectual content, the following definitions are recommended:

A.1 *Videogram:* both videodisc, videocassette or other analogous material support for any sequence of images with or without sounds and the actual fixation of the sequence.

A.2 *Videocopy:* reproduction of a pre-existing work.

A.3 *Videographic work:* work specially made for fixing on a videogram.

B. *Determination of legal status*

B.1 In the case of a videocopy, the fact of fixing the pre-existing work in no way alters its legal nature or status.

B.2 In the case of a videographic work, the new work may, according to some legal concepts, be indistinguishable from its fixation. Whatever the case may be, what should be determined is whether its legal status is that of a cinematographic work, a work expressed by a process analogous to cinematography, or a work of another nature (collective work, work of joint authorship, etc.).

It appears that the tendency is to assimilate the videographic work to a work expressed by a process analogous to cinematography.

C. *Public use*

C.1 The provisions of multilateral copyright conventions which deal with the right of reproduction and the right of public performance appear to be adequate to serve as a basis for national legislations.

C.2 The making and public use of videograms may be the subject of contracts negotiated between the parties concerned with a view to ensuring the legal security of this method of using videocopies and videographic works.

D. *Private use*

D1. It is considered necessary to delimit the concept of private use by drawing a distinction between *bona fide* recordings made at home and the marketing of copies which have been made unlawfully. It is also considered necessary to take into consideration the possibility of loans of videograms on a large scale free of charge.

D.2 In the absence of techniques making possible the strict monitoring of reproductions and, hence, the actual exercise of exclusive rights, a compensatory system is recommended with a view to mitigating the prejudice caused to the owners of these rights by the utilization of videograms for private purposes.

D.3 This compensation should consist in a charge on the sales price, either of the equipment used in the reproduction and projection of works, or of the material supports on which the sequences of images and sounds are fixed, or of both of these, the latter solution being considered the one most likely to provide the best compensation for the various categories concerned.

D.4 The collection of these compensatory payments should be carried out as far as possible by a single body, public, private or mixed, acting on behalf of all the different categories, which would be responsible for distributing the proceeds among them.

D.5 The institution of a compensatory system should not deprive the owners of rights of the normal exercise of their prerogatives as recognized by international conventions, national laws or contracts, where such exercise can be carried out, for example in the case of unlawfully made recordings being put on the market or violations of copyright on the pretext of private use.

E. *Use for teaching purposes*

E.1 It is considered necessary to delimit strictly the types of utilization of videograms for educational purposes, in order to identify the cases in which recording activities give rise to the exercise of exclusive rights, or on the contrary do not involve the exercise of these rights (fair use), or for which a system of compulsory licenses might be introduced possibly accompanied by provision for fair remuneration. Such delimitation should take account of the preferential system instituted for the developing countries by the 1971 revisions of the multilateral copyright conventions.

E.2 In this connection the following questions should be considered by legislators:

(a) Should exceptions from copyright protection be limited to systematic instructional activities in schools and universities or might they be extended to all educational activities?

(b) Should authorized exceptions be limited to reproductions made without any purpose of pecuniary gain (non-commercial activities), or might they apply to reproductions made for sale for educational purposes (commercial activities)?

(c) Might exceptions be extended to videotaping activities that are organized and carried on systematically and widely under the direction of an educational institution or should they be limited to spontaneous activities carried on at the instance of individual teachers?

(d) Where the necessary authorization has been obtained, might exceptions permit duplication of multiple copies and exchanges with other educational institutions?

(e) Might exceptions permit the holding of videorecordings for an indefinite time, or should there be time limits? If limits are prescribed, should they be related to the duration of the school or university year?

(f) Should exceptions be limited only to certain types of works, for example those specially devised for education?

(g) Should exceptions permit only the recording and use of extracts, or might they apply to entire works?

(h) If videorecording it permitted within a school or university system, who should be responsible for keeping the necessary records and for assuring that the legal limits are not exceeded?

(i) Assuming that, beyond any authorized exception, a school or university system is required to pay copyright royalties or fees, how should licensing and copyright remuneration be handled?

F. *Field of application*

The foregoing considerations should be taken to apply not only to audiovisual material but also to sound recordings.

ANNEX II

List of Participants

I. States Members of the Subcommittees

Belgium [2]: F. Van Isacker. **Brazil** [1]: J. I. MacDowell. **Canada** [2]: H. Rousseau. **France** [1]: A. Françon; J. Buffin; J. Deborgher; F. Briquet. **Hungary** [2]: G. Palós. **Israel** [1]: M. Gabay. **Italy** [3]: M. Fabiani. **Japan** [1]: A. Tahara; H. Gyoda. **Mexico** [3]: F. Riva Palacio; V. Blanco Labra. **Morocco** [2]: A. Kandil. **Netherlands** [1]: J. M. Felkers. **Senegal** [1]: N. Ndiaye. **Switzerland** [2]: J.-L. Marro; K. Govoni. **Tunisia** [3]: M. Naboultane. **United Kingdom** [1]: V. Tarnofsky; A. Holt. **United States of America** [1]: B. Ringer; L. Flacks.

II. Observers

(a) States

Colombia: M. García González; M. Durán; G. Zea Fernández. **Czechoslovakia:** V. Strhan. **Denmark:** J. Nørup-Nielson. **Ecuador:** A. Ortiz. **Luxembourg:** J. Jungers. **Norway:** A. M. Lund. **Sweden:** A. H. Olsson; E. M. A. Böttiger.

(b) Intergovernmental Organizations

International Labour Office (ILO): S. C. Cornwell. **Arab Educational, Cultural and Scientific Organization (ALECSO):** M. Ben Amor.

(c) International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé; M. Larrue; W. Rumphorst. **International Bureau of the Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** J. Elissabide. **International Confederation of Professional and Intellectual Workers (CITI):** G. Poulle. **International Confederation of Societies of Authors and Composers (CISAC):** J.-L. Tournier; D. de Freitas; C. Joubert; J.-A. Ziegler. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** G. Croasdell. **International Federation of Film Distributors Associations (FIAD):** G. Grégoire. **International Federation of Film Producers Associations (FIAPF):** A. Brisson; M. Ferrara Santamaria; S. F. Gronich. **International Federation of Musicians (FIM):** J. Morton; S. Piraccini. **International Federation of Producers of Phonograms and Videograms (IFPI):** G. Davies; E. Thompson; J. C. Eboli. **International Literary and Artistic Association (ALAI):** T. Limperg; R. Fernay; D. Gaudel; A. Géranton; D. Catterns; J. Fleurent-Didier. **International Music Council (IMC):** J. Morton. **International Writers Guild (IWG):** R. Fernay; E. Le Bris.

III. Consultant

F. Klaver.

IV. Secretariat

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock *(Director, Copyright Division)*; A. M. N. Alam *(Legal Officer, Copyright Division).*

World Intellectual Property Organization (WIPO)

C. Masouyé *(Director, Copyright and Public Information Department).*

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[1] State member of the Subcommittee of the Intergovernmental Committee of the Universal Copyright Convention.

[2] State member of the Subcommittee of the Executive Committee of tbe Berne Union.

[3] State member of the Subcommittee of the Intergovernmental Committee of the Universal Copyright Convention and of the Subcommittee of tbe Executive Committee of the Berne Union.

Conventions Administered by WIPO

Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations on Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs

(Paris, September 18 and 20, 1978)

Report

prepared by the Secretariat and adopted by the Subcommittee

I. Introduction and Participation

1. The Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) on Legal Problems Arising from the Use of Videocassettes and Audiovisual Discs in connection with the protection of the interests of the categories protected by this Convention, hereinafter referred to as " the Subcommittee, " met in Paris on September 18 and 20, 1978.

2. The meeting of the said Subcommittee was convened pursuant to the decisions taken by the above Intergovernmental Committee at its sixth ordinary session held in Geneva in December 1977, in order to look into solutions which might be offered to national legislators on the basis of legislative solutions adopted or planned in different countries, as well as current practice in respect of contractual relationships between the different interests concerned.

3. Eight States members of the Intergovernmental Committee (Brazil, Columbia, Denmark, Ecuador, Mexico, Niger, Sweden, United Kingdom) were represented at the meeting. Three States party to the Rome Convention (Italy, Luxembourg, Norway) and seven States members of the Subcommittees set up by the Copyright Committees (Executive Committee of the Berne Union and Intergovernmental Committee of the Universal Copyright Convention) (Belgium, France, Israel, Japan, Netherlands, Switzerland, United States of America) were represented in an observer capacity.

4. One intergovernmental organization (Arab Educational, Cultural and Scientific Organization (ALECSO) and nine international non-governmental organizations (European Broadcasting Union (EBU), International Copyright Society (INTERGU), International Federation of Actors (FIA), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Federation of Producers of Phonograms and Videograms (IFPI), International Literary and Artistic Association (ALAI), International Music Council (IMC), International Writers Guild (IWG)) were represented by observers.

5. The list of participants is reproduced as an annex to this report (Annex II).

II. Opening of the Meeting

6. The meeting was opened by the representative of the Director-General of Unesco, who welcomed the delegates and observers on behalf of the Secretariat of the Intergovernmental Committee.

III. Election of the Chairman

7. On the proposal of the delegation of Sweden, supported by the delegation of Colombia, Mr. V. Tarnofsky, Head of the delegation of the United Kingdom, was elected Chairman.

IV. Adoption of the Agenda

8. The Subcommittee adopted its agenda as set out in document ICR/SC.1/VAD/1 prov.

V. Introduction of Documentation

9. Professor Franca Klaver, in her capacity as Secretariat Consultant, referred to the studies she had prepared earlier on this subject for the Intergovernmental Committee of the Rome Convention for its December 1977 session (document ILO/UNESCO/WIPO/ICR.6/8 Annex II), and to the report of the Working Group convened by the Directors General of Unesco and WIPO which had met in Geneva in

February 1977 and examined the problems arising from the use of videocassettes and audiovisual discs also with respect to the Rome Convention. She stated that in preparing her study for the present Subcommittee (document ICR/SC.1/VAD/4) she had taken as her basis both the documents referred to above and the comments received from States and international non-governmental organizations. On account of the reservations and exceptions allowed for in the Rome Convention, there were gaps in the resulting protection with regard to certain categories of interests, in particular those of performing artists. Professor Klaver accordingly drew the attention of the Subcommittee to the importance of the role which might be played by national legislation and contracts in filling these gaps.

VI. General Debate

10. Referring to Professor Klaver's studies and introductory remarks, the participants in the meeting drew attention to the gravity of the problems for the beneficiaries of the Rome Convention resulting from the increased use of videograms. These problems, which had also been fully recognized and discussed in detail by the Copyright Subcommittees, were essentially of two kinds. There were, firstly, the economic difficulties encountered by the beneficiaries which, in the case of performers, took the form of restricted employment opportunities and inadequate remuneration. For the producers of phonograms and for broadcasters, they took the form of restricted commercial markets for videograms and broadcasts, and also the practice of pirating. The second kind of problems concerned the control exercised by the holders of the rights over the use of their works. The problem of technological unemployment of performers resulting from the increased use of videograms was stressed as being particularly serious by the Subcommittee. The Subcommittee considered that in theory these problems could be approached in three ways: through international protection such as that provided by the Rome Convention; through contracts or collective agreements; and through national legislation.

11. On the question of protection, the Subcommittee noted that, unlike the protection granted to authors and film producers in the copyright Conventions, the protection provided for in the Rome Convention was inadequate. This inadequacy was reflected primarily in the exceptions and reservations allowed for in the Convention, especially those in Article 15 and Article 19, the latter article being obsolete in that the invention of the videogram was not foreseen when the Convention was adopted. According to some observers, this remark only applied to videographic works and not to videocopies. It was also recalled, as had done the Working Group of 1977, that because of Article 19 the performers were the least protected beneficiaries of the Rome Convention. Despite these shortcomings, the Subcommittee considered, as did the Working Group of 1977, that it would be inopportune to revise the Convention under present circumstances.

12. As to contracts and collective agreements, the Subcommittee recognized that these solutions were also likely to be inadequate. First, in the use of videograms, an identification of the bargaining partners would be difficult. Second, even if the bargaining partners could be identified, it was not certain that contracts would be effective unless one of the parties had an exclusive right; that owners of rights, if they were copyright holders, would have the same interests as those of the beneficiairies of the Convention; nor was it certain that bargaining would be effective unless the parties had equal negotiating strength. Third, it was doubtful whether contracts or collective agreements could ensure an equitable safeguarding of interests as established by the Rome Convention. And fourth, contracts and collective agreements contributed little to the solution of problems at the international level.

13. The Subcommittee decided that the most practical solution would be to provide protection in national legislation. Consequently, the task of the Subcommittee was to provide national legislators with guidelines on how the use of videograms should be regulated, taking into account the limitations in the Rome Convention and the interests of the beneficiaries. The participants from Colombia and Israel welcomed the drafting of guidelines since laws were currently being prepared in their respective countries.

14. In order to establish the guidelines, the Subcommittee decided to base its work on the discussions of the Copyright Subcommittees — that is to consider questions of terminology, private use and use for teaching purposes, collection and distribution of remuneration — as well as on the particular problems faced by the beneficiaries of the Rome Convention such as their control over the uses of their works. A few general remarks were made in this context by the observers representing certain beneficiaries of the Convention. First they recommended that the use of videograms should be limited to private and domestic use and not use for public performance or broadcasting. Second, that whatever the form of remuneration to be paid resulting from the use of videograms, it should be paid to all the groups contributing to the making of a videogram. Third, as far as performers were concerned, remuneration should not be considered as a solution in isolation from the problem of giving consent for the secondary use of works. And finally, the guidelines of the Subcommittee should also include the protection of phonograms as well as videograms.

VII. Terminology

15. The Subcommittee endorsed the terminology adopted on this subject by the Copyright Subcommittees, which is contained in Annex I to this report.

16. With regard to the term "videocopy," it was agreed that the expression "pre-existing work" meant a previously recorded work and that it could be either a visual or audiovisual reproduction.

VIII. Private Use

17. The Subcommittee endorsed the conclusions reached by the Copyright Subcommittees which are reflected in Annex I to this report. It stressed that the compensation for the prejudice caused to those concerned should be based on a levy on both the equipment used in making the reproduction and on the material support used to fix the images and sounds. It, too, considered that payment should be collected globally and as far as possible by a single body, public, private or mixed, which would be responsible for distributing the proceeds among the different categories.

18. During the discussion, the Subcommittee was informed that the possibility of establishing a remuneration system of this kind was being studied in certain countries, including the United Kingdom and in Austria (where a draft law provides for a right to equitable remuneration based on the sale price of the blank material support).

19. With regard to the system now in force in the Federal Republic of Germany, it was pointed out that its application had given rise to negotiations based on the fact that the rate of 5 per cent on the sale price of the recording equipment, stipulated by law, constituted a maximum and that, following these negotiations, it currently amounted to 4.07 per cent.

20. The Subcommittee associated itself with the recommendation of the Copyright Subcommittees that Unesco and WIPO should collect all available information on the way in which this system is applied, and expressed the wish that the inquiry should also cover all available information on the Austrian draft law. In this connection the observer of the International Copyright Society announced the offer made by its president, Dr. Schulze, who is also president of the body responsible for collecting and distributing the amount collected under Article 53 of the 1965 Copyright Act of the Federal Republic of Germany, to transmit a study on this subject to the Secretariats.

21. In addition, the Subcommittee was informed that a proposed bill on the protection of performers was to be presented to the French Parliament. This proposal stipulates *inter alia* that the artist's performance, once published, may be the object of free and private use.

IX. Use for Teaching Purposes

22. The Subcommittee expressed the view that the questions identified by the Copyright Subcommittees for submission to national legislators for their consideration also arose in the field of neighboring rights. These questions are listed in Annex I to this report.

23. While recognizing that the field of use of videograms for teaching purposes is narrower than that of private use, the Subcommittee pointed out that, in this instance also, difficulties arose in monitoring the use of performances incorporated in recordings reproduced in the form of videograms.

24. It was recalled that Article 15 of the Rome Convention accorded national legislations the right to provide for exceptions to protection in the case of use solely for the purposes of teaching. Nevertheless the Subcommittee recommended that judicious use should be made of this right and, subject to the preferential regime for developing countries provided for in the 1971 revised texts of the multilateral copyright conventions, that very limited exceptions only should be allowed with eventual compulsory licenses. It was pointed out that certain exceptions which could be regarded as reasonable for some media are no longer reasonable in the case of videograms.

25. Some members of the Subcommittee recommended that, to the extent that legislators considered that they should have recourse to exceptions for teaching purposes, these exceptions should be accompanied by a compulsory license and should in general provide for fair remuneration.

26. The question was raised as to whether, in the light of the general principle contained in Article 1 of the Rome Convention, derogations to protection in the field of neighboring rights should not be aligned on what might be envisaged in the field of copyright.

27. It was stated that, on certain points, the protection provided for by the Rome Convention seemed to be greater than that recognized in multilateral copyright conventions. This was the case, for example, in the reproduction of phonograms and in the rights accorded to broadcasting organizations. In both cases, in fact, the Rome Convention includes the right to authorize or prohibit, whereas a system of compulsory licenses may be set up in the field of copyright.

28. Recalling the employment crisis affecting the profession of performers, which can only worsen with the increase in the number of videograms also used for teaching purposes, the Subcommittee considered that the award of remuneration in certain cases involving the use of their performances, although justified in itself, was not an appropriate way of overcoming this crisis. Like the 1977 Working Group, it believed that the solution could be found in fields

other than that of the Rome Convention, more particularly in connection with labor legislation or with cultural policies designed to promote living art. Furthermore, reference was again made to the possibility that the General Conference of Unesco might adopt an international recommendation or a declaration on the status of the artist.

X. Distribution of Videograms

29. The Subcommittee confirmed the views expressed on this subject by the 1977 Working Group with regard to the actual nature of videograms, which are particularly mobile supports made available to the public without any possibility of monitoring the use made of them. It considered that the attention of legislators should be drawn to these characteristics which facilitate infringement of the prerogatives of the contributors to the productions used and which result in serious prejudice to the categories concerned.

30. The Subcommittee's attention was also drawn to the provision of Article 19 of the Rome Convention which limits the prerogatives accorded by this instrument to performers in cases where they have consented to the incorporation of their performances in a visual or audiovisual fixation. In view of the use of videograms as a new dissemination technique, it recommended that the attention of legislators should be drawn to the fact that the application of this provision would cause serious prejudice to the interests of artists.

XI. Procedural Recommendations

31. Noting that most of the problems submitted to it for study related both to copyright and to neighboring rights, and that it had therefore to consider matters already debated by the Copyright Subcommittees, the Subcommittee expressed the wish that, in future, when particular subjects came up for study, the bodies which might have been appointed for that purpose by the Intergovernmental Committee of the Rome Convention should be convened at the same time as the corresponding bodies set up by the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention.

32. Bearing in mind the need, stressed during the debates, to alert the competent authorities as soon as possible as to the problems raised by the utilization of videograms, and with a view to developing awareness of the existence of these problems, not only among the circles concerned but also among users, the Subcommittee expressed the wish that the present report, which would be submitted to the 1979 session of the Intergovernmental Committee of the Rome Convention, should immediately be given wide circulation among States and organizations. It also suggested that, after consideration by the aforementioned Committee, a full set of documents should be constituted and published, including, among other papers, all the studies prepared by professor Klaver, and the report of the 1977 Working Group.

XII. Closing of the Meeting

33. In the absence of the Chairman of the Subcommittee, the final session of the Subcommittee which adopted the report was chaired by Mr. A. H. Olsson, Head of the delegation of Sweden. After the customary expression of thanks, Mr. Olsson declared the meeting closed.

ANNEX I

Inventory of Problems

This inventory of problems was examined and adopted by the above Subcommittees in the context of problems arising in the field of copyright. Because many of the problems listed below also affect performers, producers of phonograms and broadcasting organizations, the Subcommittee of the Intergovernmental Committee of the Rome Convention decided to append this inventory to its final Report. None the less, this Annex should not be considered separately from the final Report, since several problems cited in the inventory affect copyright owners and owners of so-called neighboring rights differently. Particular attention should be paid to paragraphs 11 and 12 of the final Report, which render Section C of the inventory (Public use) inapplicable as regards the protection of the beneficiaries of the Rome Convention. Section E of the inventory (Use for teaching purposes) should be read in conjunction with paragraphs 22 to 28 of the final Report. Finally, the question of the distribution of videograms (paragraphs 29 and 30) is not treated in the inventory.

[As for the inventory adopted by the Subcommittees appointed to study the legal aspects in relation to copyright of the use of videocassettes and audiovisual discs (Subcommittees established by the Executive Committee of the Berne Convention and the Intergovernmental Committee of the Universal Copyright Convention see above in this issues, p. 411.]

ANNEX II

List of Participants

I. States Members of the Subcommittee

Brazil: J. I. MacDowell. **Colombia:** M. Durán; G. Zea Fernandez. **Denmark:** J. Nørup-Nielsen. **Ecuador:** A. Ortiz. **Mexico:** F. Riva Palacio; V. Blanco Labra. **Niger:** A. Bonkaney. **Sweden:** A. H. Olsson; E. M. A. Böttiger. **United Kingdom:** V. Tarnofsky; A. Holt.

II. Observers

(a) States

Belgium: J. Bierlaire; J. Vermeire; P. Monfils. **France:** A. Françon; J. Buffin; J. Deborgher. **Israel:** M. Gabay. **Italy:** M. Fabiani. **Japan:** A. Tahara. **Luxembourg:** J. Jungers. **Netherlands:** J. M. Felkers. **Norway:** A. M. Lund. **Switzerland:** J.-L. Marro; K. Govoni. **United States of America:** B. Ringer; L. Flacks.

(b) Intergovernmental Organizations

Arab Educational, Cultural and Scientific Organization (ALECSO): M. Ben Amor.

(c) International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Larrue. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** F. Delahalle; G. Croasdell. **International Federation of Film Producers Associations (FIAPF):** A. Brisson. **International Federation of Musicians (FIM):** J. Morton; R. Leuzinger; S. Piraccini. **International Federation of Producers of Phonograms and Videograms (IFPI):** G. Davies; E. Thompson; J. C. Eboli. **International Literary and Artistic Association (ALAI):** D. Catterns. **International Music Council (IMC):** J. Morton. **International Writers Guild (IWG):** E. Le Bris.

III. Consultant

F. Klaver.

IV. Secretariat

International Labour Office (ILO)

S. C. Cornwell *(Salaried Employees and Professional Workers Branch).*

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock *(Director, Copyright Division)*; A. M. N. Alam *(Legal Officer, Copyright Division).*

World Intellectual Property Organization (WIPO)

C. Masouyé *(Director, Copyright and Public Information Department).*

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

Accessions to the Convention

EL SALVADOR

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms * that, according to the notification received from the Secretary-General of the United Nations, the Government of the Republic of El Salvador deposited, on October 25, 1978, its instrument of accession to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to the Republic of El Salvador, three months after the date of the notification given by the Director General of WIPO, that is, on February 9, 1979.

* Phonograms Notification No. 36, of November 9, 1978.

PARAGUAY

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms * that, according to the notification received from the Secretary-General of the United Nations, the Government of the Republic of Paraguay deposited, on October 30, 1978, its instrument of accession to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to the Republic of Paraguay, three months after the date of the notification given by the Director General of WIPO, that is, on February 13, 1979.

* Phonograms Notification No. 37, of November 13, 1978.

Law Survey

(Continued) *

Portugal

1. Official title and date of current legislation

Decree-Law No. 46980 (Copyright Code), of April 27, 1966.

2. Works eligible for protection

General eligibility criteria

Intellectual works protected under copyright include creations of the human intellect, whatever may be the mode of their expression (Art. 1(1)).

Copyright is recognized independently of the filing or registration thereof or of any other formality (Art. 4(3)). See, however, under 7 below.

Special categories of works

Article 2 contains a non-limitative list of categories considered to be intellectual works, which includes, *inter alia*, cinematographic and photographic works, works of applied art and choreographic works and entertainments in dumb show the acting form of which is fixed in writing or otherwise. A photograph must be a personal artistic creation of its author in order to be eligible for protection (Art. 147(1)); copies thereof must bear the indications specified in Article 150.

Derivative works (translations, adaptations, collections, compilations, etc.) are protected as original works, without prejudice to the author's rights in the original work (Arts. 3(1) and 166).

The Law contains no specific provisions on designs, type faces, typographical arrangement or works of folklore.

Works not protected

News of the day or other news items may be freely reproduced (Art. 180). The following may also be reproduced: speeches made in public (provided the author's name is indicated) and lectures in a forum open to information agencies (except in the case of express reservation) (Arts. 181 and 182).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the intellectual creator of the work (Art. 8(1)). In the absence of proof to the contrary, the person whose name is indicated or announced as being that of the author is deemed to be the author (Art. 20). The publisher of anonymous or pseudonymous works is, in the absence of proof to the contrary, considered to be the author's representative (Art. 24(1)). In the case of works of joint authorship, copyright is owned and exercised jointly (Art. 11). In the case of collective works, copyright is attributed to the person or body corporate that organized and directed the creation of the work and in whose name it was disclosed or published (Art. 13).

Unless otherwise agreed, copyright in works produced under an employment contract (if they are signed) or on commission belongs to the author (Arts. 8(3) and (6) and 179(1)).

4. Rights granted

Economic rights

The author has the exclusive right to enjoy and use his work, or to authorize its use or enjoyment, in whole or in part; the work may be used by all means currently known or which may be known in the future, including reproduction by any means, publication, performance, recitation, exhibition, cinematographic adaptation, recording, diffusion by any means for the reproduction of signs, sounds or images, translation, adaptation, etc. (Arts. 4(2), 61 and 62).

Moral rights

Independently of his economic rights, and even after their transfer, the author has the right to claim authorship of his work and to object to any distortion, mutilation or other modification thereof, or any other action prejudicial to his honor or reputation (Art. 55). He also has the right to withdraw from circulation a work already disclosed, subject to compensation to the parties concerned (Art. 58).

Droit de suite

An author who has transferred an original work of art or manuscript is entitled to participate in any increase in value occurring upon any subsequent transfer (10 percent on sales up to 10,000 escudos and 20 percent beyond that sum) (Art. 59).

5. Limitations on copyright

Uses permitted without payment

Public entities, libraries, etc., may reproduce excerpts from works for their own use or for private use of the persons so requesting (Art. 63). National anthems, patriotic songs, etc., may be performed as an integral part of educational practice (Art. 184). Excerpts from works may be reproduced or summarized in another author's work and in anthologies for use in schools, under specified conditions (Art. 185). Pictures of works of architecture or other plastic art may be freely reproduced by the press, cinema, television or any other medium (Art. 152).

* See the Introduction in the September issue, p. 213.

Broadcasting organizations are permitted to make ephemeral recordings which, in the case of State-owned organizations, may be retained in the official archives if they are of special interest as historical documents (Art. 157).

Uses permitted against payment (legal license)

Reproduction of photographs in scientific or educational works and in newspapers or other similar publications is permitted under certain conditions (Art. 151). The official broadcasting services may, subject to authorization by the competent Minister, make special broadcasts in the national interest without the author's authorization (Art. 161). In both cases, equitable remuneration must be paid.

Compulsory licenses

When a person to whom copyright in an already published work has been transferred declines to republish it after the earlier editions have been exhausted, the court may authorize republication when that is in the public interest (Art.52).

A non-exclusive license to translate a work written in a foreign language can be granted by the court, 7 years after its publication, along the lines provided for in Article V of the Universal Copyright Convention (Art. 164).

6. Term of protection

The term of protection, with respect to the economic utilization of works (including posthumous works), is the life of the author and 50 years after his death or, in the case of joint authorship, 50 years after the death of the last surviving author (Arts. 25, 30 and 33), subject to the comparison of terms as far as works of foreign origin are concerned (Art. 26). The term for a collective, anonymous or pseudonymous work is 50 years after the first publication or disclosure (Arts. 31 and 34). All terms run from January 1st of the year following the relevant fact (Art. 35).

Moral rights (Art. 55) are imprescriptible. They are exercised by the author's heirs until the works fall into the public domain and by the State thereafter (Art. 57).

7. Transfer of rights

Rights of an economic nature are transferable, in whole or in part, by all means recognized by law (Arts. 5(2) and 38). Contracts providing for the total transfer of copyright must be established by a deed executed with witnesses, while other contracts need to be proved in writing (Art. 44). The transfer of copyright with respect to future works may cover only works produced over a period of 10 years (Art. 46).

Registration is required for all deeds providing for the total or partial transfer of copyright; the absence of registration makes such instruments inoperative with respect to third parties (Art. 189).

The Law contains detailed provisions on publishing contracts (Arts. 71 to 101), performance and recitation contracts (Arts. 102 to 121), contracts for cinematographic production (Arts. 122 to 136), for recording on phonograms and reproduction by mechanical and other means (Arts. 137 to 146), for sound and visual broadcasting (Arts. 155 to 162), for translation, arrangement and other transformation (Arts. 163 to 168) and for use of works of the plastic, graphic and applied arts (Arts. 169 to 176).

Moral rights (Art. 55) are inalienable (Art. 57).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of rights of performers, producers of phonograms or broadcasting organizations with the exception of Article 16, which refers to the remuneration payable to performers and producers of phonograms.

10. Agencies set up under law and their function

Under the Regulations for the Registration of Copyright (Decree No. 4114 of April 17, 1918) maintained in force by Article 189(3) of the Law, the registration of copyright is effected at the National Library; the Director of the Library acts as Custodian of the Register.

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from January 12, 1979.

Universal Copyright Convention, 1952, as from December 25, 1956.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from September 6, 1969.

12. Bilateral agreements

Copyright treaties with Spain (1880) and Brazil (1922).

Exchange of Notes with Italy (1906).

13. Applicability to foreigners not covered by conventions or agreements

Copyright is recognized even where the work is not protected in its country of origin (Art. 4(3)).

Romania

1. Official title and date of current legislation

Decree Relating to Copyright, No. 321, of June 18, 1956, as amended up to December 28, 1968.

2. Works eligible for protection

General eligibility criteria

Copyright subsists in literary, artistic or scientific works, as well as in any other similar works of an intellectual character, whatever the content or form of expression thereof, created in Romania or the author of which is a Romanian citizen (Art. 1). Copyright arises the moment the work takes the form of a manuscript, sketch, plan, painting, or any other concrete form (Art. 2).

No formalities are required.

Special categories of works

A non-comprehensive list of protected works appears in Article 9; among other things it includes cinematographic works, works produced by means of phonographic recording or through television, artistic photographs, works of applied art, choreographic works and pantomimes the acting form of which is fixed in writing.

Translations, adaptations, arrangements and any other transformations of literary or musical works, as well as collections, enjoy protection provided they have creative character (Art. 10).

The Decree contains no special provisions concerning designs, type faces, typographical arrangement or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

Copyright is guaranteed to the author, in other words the person who has created the work (Arts. 1 and 2).

If the work is the result of collaboration, the copyright belongs to the co-authors and the economic rights which result from the exercise of this right are equally divided, unless agreed otherwise (Art. 4).

Motion picture and broadcasting studios and organizations for making mechanical recordings have copyright in the collective works they produce (Art. 11).

4. Rights granted

Economic rights

The economic rights comprise the rights of reproduction, distribution and performance, the right to derive economic benefit from any other lawful method of using the work and the right to damages in the case of unlawful use of the work (Art. 3).

Moral rights

The author has the right to make the work known to the public, to be recognized as its author and to consent to its use; he also has the right to inviolability of the work and to its use in accordance with its nature (Art. 3).

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

The following are allowed without the author's consent and without the payment of any remuneration, but with due regard for all his other rights: (i) the reproduction or broadcasting as information of speeches given at public gatherings and newspaper articles; (ii) the publication of literary, musical and scientific works or reproduction of works of plastic art in school books, university treatises and other similar works for teaching purposes, and the performance, recital or exhibition of works in the course of the usual activities of schools, cultural centers, etc.; (iii) the making of small excerpts from works, serving exclusively to illustrate lectures and publications of a scientific character, etc.; (iv) the exhibition of works of plastic art at public exhibitions; (v) the transformation of works of plastic art into other genres; (vi) the reproduction of works of plastic art in films, on slides or on television and the reproduction of such works located in public places; however, if the work of art itself constitutes the main subject of the reproduction, the author has the right to remuneration (Art. 14).

Uses permitted against payment (legal license)

The following are allowed without the author's consent but with due regard for all his other rights: (i) the mechanical recording of works on phonographic discs or by any other means, if the works have already been reproduced or distributed; (ii) the broadcasting by radio or television, or the recording for the purposes of broadcasting, of works from theaters or public halls where they are performed or exhibited; (iii) the insertion in collections, albums, etc., of works that have already been disclosed to the public, and their mechanical recording for broadcasting or use in cinematographic newsreels (Art. 13).

6. Term of protection

The author enjoys copyright for the duration of his life (Art. 2). On his death his economic rights are transmitted: *(a)* to his spouse and ascendants, for the life of each; *(b)* to his descendants, for 50 years; *(c)* to other heirs for 15 years, without a new devolution by succession. The terms provided for under *(b)* and *(c)* above run from January 1st following the author's death (Art. 6). Where the right belongs to a legal entity, the term of protection is 50 years from the publication of the work (Art. 7).

Shorter terms after publication are provided for certain categories of works: 20 years for encyclopedias, dictionaries and collections; 10 years for a series of artistic photographs; 5 years for separate artistic photographs (Art. 7).

7. Transfer of rights

Copyright may not be transferred by act *inter vivos*. The exercise of economic rights may be assigned for a limited period of time (Art. 3). The contract concerning the exercise of copyright must be executed in writing (except for works to be published in newspapers and periodical publications — Art. 27) and must contain all the elements necessary for determining the remuneration due to the author (Art. 19). Contractual clauses unfavorable to authors as compared with the provisions in force are void and are replaced as of right by the latter (Art. 24). Articles 26 to 36 contain special provisions on contracts for publishing, for public performance, for use in a motion picture and for diffusion by radio and television.

On the author's death his economic rights are transmitted by succession according to the Civil Code (Art. 6); the task of protecting the authorship, inviolability and just use of the work devolves upon the respective authors' union or society or, in its absence, upon the competent State agency (Art. 5).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Decree contains no provisions on the protection of the rights of performers.

With regard to producers of phonograms and broadcasting organizations, see under 2 and 3 above.

10. Agencies set up under law and their function

The Ministry of Culture establishes standard contracts concerning the exploitation of copyright for each type of creative work (Art. 25).

11. Relevant multilateral conventions

Berne Convention: Rome Act, 1928, as from August 6, 1936 (substantive provisions); Stockholm Act, 1967, as from January 29, 1970 (administrative provisions), with declaration under Article 33(2).

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

No provisions.

Senegal

1. Official title and date of current legislation

Law on the Protection of Copyright, No. 73-52, of December 4, 1973.

2. Works eligible for protection

General eligibility criteria

The Law applies to works of Senegalese nationals, to works of foreign nationals first published in Senegal, to works of architecture erected on the territory of Senegal and to artistic works incorporated in a building located on that territory (Art. 53).

The author of an original intellectual work enjoys, by the mere fact of its creation, an exclusive incorporeal property right in it (Art. 1).

The work is considered created, independently of any public disclosure, by the mere fact of the author's conception being realized, even incompletely (Art. 4).

No formalities are required.

Special categories of works

Photographic works of an artistic and documentary character to which are assimilated works expressed by a process analogous to photography, as well as tapestries and objects created by artistic professions and by the applied arts, are protected according to the general rules (Art. 1(viii) and (xi)). Bas-relief and mosaics are listed among artistic works (Art. 1(vi)). Choreographic and mimed works are considered intellectual works if their acting form is fixed in writing or otherwise (Art. 1(iii)).

Works of folklore and works derived from folklore are protected, subject to a special law on the protection of the national heritage (Art. 1(xiii)). Public performance and direct or indirect fixation of folklore with a view to exploitation for profit-making purposes are subject to prior authorization by the *Bureau sénégalais du droit d'auteur*, against payment of a royalty (Art. 9).

The authors of translations, adaptations, alterations or arrangements, as well as of anthologies or collections, enjoy protection without prejudice to the rights of the authors of the original works (Art. 8).

The Law contains no specific provisions on the protection of industrial designs and models, type faces or typographical arrangement.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

The author of a work is the person who has created it. Authorship belongs, in the absence of proof to the contrary, to the person under whose name the work is disclosed (Art. 4).

A work of joint authorship belongs jointly to the co-authors, who exercise their rights by common consent, failing which the court decides (Art. 6).

Original copyright, even in a work produced under an employment contract or a contract to make a work, belongs to the author, subject, however, to some limitations concerning the distribution of the pecuniary rights in works produced by administrative officers within the limits of their duties, or by pupils or trainees of a school or artistic establishment (Art. 4).

The maker of a cinematographic work (i.e., the natural person or legal entity on whose initiative the work is produced and on whose responsibility it is exploited) is deemed to be invested with the copyright in such work (Art. 23). Before undertaking the making, the maker is bound to enter into contracts with the intellectual creators of the cinematographic work, including: the author of the script; the author of the adaptation; the author of the musical compositions, with or without words, composed specially for the work; the director; and the author of the dialogue. In the absence of a clause to the contrary, these contracts constitute assignment to the maker of the exclusive right of cinematographic exploitation (Art. 24).

4. Rights granted

Copyright includes attributes of an intellectual and moral nature and attributes of an economic nature (Art. 3).

Economic rights

The economic rights include the author's exclusive right to exploit his work in any form, in particular, reproduction in any material form, performance or recitation in public by any means or process (including sound or visual broadcasting), communication of the broadcast work to the public, as well as translation, adaptation, arrangement or any alteration of the work (Art. 3*(b)*).

Moral rights

The moral rights consist of the author's right to decide on the disclosure of his work, and to respect for his name, his authorship and his work. These rights are perpetual, inalienable and imprescriptible (Art. 3*(a)*). The author has also the right to disavow or withdraw his work (Art. 22).

Droit de suite

Authors of graphic and plastic works also have an inalienable right to share in the proceeds from any sale of their works by public auction or through a dealer, at the rate of 5 percent of the proceeds from the sale (Art. 19).

5. Limitations on copyright

When a work has been lawfully made available to the public, its author may not prohibit: *(a)* communications such as performance and broadcasting if (i) they are private, made exclusively within a family circle and do not generate receipts of any kind, or (ii) they are made free of charge for strictly educational or school uses, or in the course of a religious service in premises reserved for the purpose; *(b)* reproductions, translations and adaptations intended for strictly personal and private use; *(c)* parodies, pastiches and caricatures (Art. 10).

It is also lawful, subject to the mention of the title of the work and the name of the author, to make analyses of or short quotations from a work which has already been lawfully made available to the public (provided that they are compatible with fair practice) and to reproduce in the press or broadcast articles on current political, social and economic topics and speeches intended for the public (provided that the right of reproduction is not expressly reserved) (Arts. 11 and 12).

Reproduction and communication to the public of works seen or heard in the course of current events are lawful in reporting such events (Art. 13). Works of figurative art and of architecture which are permanently located in a public place may be reproduced for the purposes of cinematography or television and communicated to the public (Art. 14).

6. Term of protection

Copyright subsists during the lifetime of the author and 50 years from the end of the year of his death (Art. 40). The term for anonymous or pseudonymous works, cinematographic works, posthumous works and collective works is 50 years from the year in which the work was lawfully made accessible to the public (Art. 41*(a)*). The term for works of photography and applied art is 25 years from the year of the author's death (Art. 41*(b)*). The author's moral rights are perpetual (see under 4 above, Art. 3*(a)*).

7. Transfer of rights

Performance, reproduction, adaptation and translation rights may be assigned gratuitously or for a consideration, totally or partially (Art. 22). Total transfer of future works is void (Art. 20). The Law contains detailed provisions on authors' contracts, including publishing and performance contracts (Arts. 28 to 39).

With the exception of the right to modify the work, copyright is transferable by succession. Authors' economic rights which have escheated accrue to the *Bureau sénégalais du droit d'auteur*, and the proceeds from royalties resulting therefrom are used for cultural and welfare purposes (Art. 15).

8. Domaine public payant

The performance of works in the public domain is subject to payment of a fee the rate of which does not exceed 50 percent of the rate of royalties collected during the term of protection. The right of performance of such works is administered by the *Bureau sénégalais du droit d'auteur* (Art. 43).

9. Neighboring rights

The Law contains no provisions on the protection of rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The *Bureau sénégalais du droit d'auteur* may be party to legal proceedings for the defense of the interests entrusted to it, including all disputes relating directly or indirectly to the reproduction or the communication to the public of works (Art. 44). Statements by its sworn agents are accepted as material proof of infringements (Art. 50). It also gives authorization for public performance and direct or indirect fixation of folklore (Art. 9; see under 2 above) and collects fees for performance of works in the public domain (Art. 43; see under 8 above).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from August 12, 1975.

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

Foreign works which do not fall into one of the categories to which the Law applies enjoy protection subject to reciprocity. The countries for which this condition is deemed to be fulfilled are determined jointly by the Minister in charge of Cultural Affairs and the Minister for Foreign Affairs (Art. 53).

South Africa

1. Official title and date of current legislation

The Copyright Act, 1965 (entry into force: September 11, 1965), as amended up to June 20, 1975.

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in respect of original literary, dramatic, musical or artistic works if:

(a) in the case of a published work, the work was first published in South Africa, or the author was a citizen of, or was domiciled or resident in, South Africa (or, if a body corporate, it was incorporated under the laws of South Africa) at the time of the first publication;

(b) in the case of an unpublished work, the author was such citizen, or domiciled or resident, at the date of the making of the work (Secs. 3 and 4).

A work is considered to be made only if it is reduced to writing or some other material form (Sec. 47(4)).

No formalities are required.

Special categories of works

Separate but similar provisions have been made in respect of cinematographic works (Sec. 14), sound recordings (Sec. 13) and broadcasts (Sec. 15).

The term " literary work " includes a table or compilation; the term " dramatic work " includes a choreographic work or entertainment in dumb show, if the form of presentation is reduced to writing; the term " artistic work " includes photographs and works of artistic craftsmanship (Sec. 1).

Adaptations are protected as original works (Sec. 47(1)), and the term " adaptation " is defined in the Act as including translation in the case of a literary or dramatic work (Sec. 1(1)).

Section 11 contains special provisions concerning industrial designs.

Publishers of published editions of literary, dramatic, musical or artistic works have the exclusive right to reproduce by photographic or similar process the typographical arrangement thereof. This right subsists for a period of 25 years from the year of publication (Sec. 16).

The Act contains no specific provisions on type faces or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of the work is the first owner of the copyright therein (Sec. 5). In the case of a sound recording and a cinematograph film the maker is the owner of copyright (Secs. 13(3) and 14(3)), while in the case of a photograph the owner of the film is deemed to be the author (Sec. 1(1)). Section 21 sets out certain presumptions as to authorship. Copyright in broadcasts is owned by the South African Broadcasting Corporation (Sec. 15(2)).

In the absence of any agreement to the contrary:

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by a proprietor of a newspaper or other periodical under a contract of service or apprenticeship, such proprietor is the owner of the copyright to the extent it relates to the publication or reproduction in any newspaper or periodical, but in all other respects the author is entitled to copyright;

(b) in the case of a work commissioned by a person or made in the course of the author's employment under a contract of service or apprenticeship, the person who commissioned the work or the employer, as the case may be, is the owner of copyright (Sec. 5);

(c) where the work is published under the direction or control of the Government or any international organization recognized by the Government, copyright is vested in the Government or the international organization, as the case may be (Secs. 33 and 39).

4. Rights granted

Copyright in relation to a literary, dramatic or musical work includes the right to reproduce, perform or publish any work or any translation or adaptation thereof, or to use it for making a record or cinematograph film, or to broadcast the work or to transmit it to subscribers to a diffusion service (Sec. 3(4)). In respect of an artistic work, it includes the right to reproduce, publish or broadcast it in television or to transmit it by a diffusion service (Sec. 4). In respect of a cinematograph film, it includes the right to make a copy of it, to have it seen or heard in public, to broadcast the film or to transmit it by a diffusion service (Sec. 14). In the case of a sound recording, it includes the direct or indirect reproduction thereof (Sec. 13). In the case of a broadcast, it includes the right to record it or to rebroadcast it by wire or otherwise, and in the case of television also its communication to the public under certain conditions and the making of still photographs or a cinematograph film (Sec. 15).

The Act contains no provisions on moral rights or *droit de suite*.

5. Limitations on copyright

Sections 7 to 11 and 40 to 42 set out the circumstances under which and the conditions subject to which various acts do not constitute infringement. Some of the more important of these are the following: fair dealing for purposes of private study, personal use, research, criticism or review or for reporting current events in a newspaper or other periodical or in a broadcast, a photograph or a cinematograph film (Secs. 7 and 10); reproduction, by way of painting, drawing, engraving or photography or other artistic craftsmanship, of works of art permanently situated in a public place (Sec. 10); inclusion of short passages from works in a collection intended for the use of schools (Sec. 7(4)); reproduction for purposes of judicial proceedings (Sec. 7(2)); performance and reproduction of copyright material for educational purposes (Sec. 41); taking a limited number of copies from works in a library or archives for its own use or for supply to research students, for private study, etc.; subject to regulations made by the Government (Sec. 8); ephemeral recording for broadcasting purposes or for archives (Sec. 7(5)); communication and diffusion of broadcasts of works authorized by the owners of copyright (Sec. 40); and reproduction by manufacture of records of musical works already made or imported lawfully, subject to payment of royalties (Sec. 9).

Limitations similar to those mentioned above have been provided in respect of the rights in sound recordings and broadcasts, but in the case of a recording fair dealing does not include the making of a copy for personal use.

6. Term of protection

In the case of literary, dramatic, musical or artistic works, published or unpublished, copyright subsists until the end of a period of 50 years from the end of the calendar year in which the author died (Secs. 3(3) and 4(3)). For a cinematograph film, the period of 50 years is calculated from the date of its approval by the Board of Censors or of its publication, if not approved (Sec. 14(2)), and in the case of sound recordings and broadcasts, from the date when they were made (Secs. 13(2) and 15(2)).

Works of Government and of international organizations to which the Act applies are protected for 50 years from the year of publication (Secs. 33 and 39). The same period is applicable in the case of anonymous or pseudonymous works (Second Schedule).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law. It can be assigned either in whole or in part, but no assignment is valid unless it is in writing. Future copyright can be assigned subject to the conditions in Section 37 (Secs. 36 to 38).

The Act provides for the operation of license schemes by bodies or associations of persons on behalf of owners of copyright of various kinds and for the settlement of disputes arising therefrom (Secs. 26 to 28).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act contains no provisions on the protection of the rights of performers as such.

For phonograms and broadcasts, see under 2 above.

10. Agencies set up under law and their function

The Act provides for a Copyright Tribunal with functions set out in Section 24. It deals mainly with matters and disputes arising from license schemes operated by licensing bodies as provided in the Act (Secs. 24 to 31).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from August 1, 1951 (substantive provisions); Paris Act, 1971, as from March 24, 1975 (administrative provisions), with declaration under Article 33(2).

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

The Government may by proclamation of the President extend the provisions of the Act to works originating from countries which, although not party to a convention to which South Africa is a party, provide for adequate protection to owners of copyright under the Act (Sec. 32); such proclamation was made on September 24, 1973, with respect to the United States of America.

If the Government is satisfied that any foreign country does not adequately protect the works of South African citizens, it may by regulation restrict the protection under the Act available to works of authors of that country published in South Africa (Sec. 35).

Soviet Union

1. Official title and date of current legislation

Fundamentals of Civil Legislation of the Union of Soviet Socialist Republics and the Union Republics of December 8, 1961; in particular, Chapter IV on Copyright, Articles 96 to 106, as amended up to October 13, 1976 (further references without any source).

Article 3 of the Fundamentals does not indicate copyright among the branches of civil law which come within the exclusive jurisdiction of the Union of Soviet Socialist Republics. That is why all the 15 Union Republics also provided, in the framework of their Civil Codes, as promulgated in the years 1964 and 1965, for their own codifications of copyright law, in accordance with the Fundamentals, developing and supplementing the rules set forth therein. The Union Republics have settled questions of copyright with very few exceptions in basically the same way. Amendments in connection with the accession of the Soviet Union to the Universal Copyright Convention were introduced in the copyright laws of all Union Republics with effect from June 1, 1973. Over and above the Fundamentals hereinafter reference will systematically only be made to the copyright provisions contained in the Civil Code of the Soviet Socialist Federative Republic of Russia of June 11, 1964, Fourth Chapter, Articles 475 to 516, as amended up to October 18, 1976, referred to as CCR. With regard to laws of other Republics, only some distinguishing points will be mentioned.

2. Works eligible for protection

General eligibility criteria

Copyright is granted in respect of all works of citizens of the USSR, and regarding other persons in respect of their works first published in the territory of the USSR or located there in any form (if unpublished) (Art. 97).

Copyright extends to published or unpublished scientific, literary or artistic works, expressed in any objective form permitting reproduction of a product of creative activity, such as manuscript, drawing technique, picture, public performance or execution, recording upon films, mechanical or magnetic tape recording, etc., independently of their purpose, value or method of expression (Art. 96).

According to Article 476 CCR, a work is deemed to be published when it is released to the public, performed or displayed in public, diffused by radio or television or communicated in any other manner to an indeterminate group of persons. In giving protection pursuant to international treaties or international agreements, the fact of the publication of a work abroad is determined in conformity with the provisions of the relevant international treaty or international agreement. Multiplication of the work as a manuscript is not considered to constitute publication in cases provided for by the Council of Ministers of the Republic.

Special categories of works

Article 475 CCR illustrates subjects of copyright by enumerating also, among others, cinematographic or television films, radiophonic or television transmissions, choreographic works and pantomimes the acting form of which is fixed in writing or otherwise, works of applied art, plans, sketches and models relating to science, techniques or stage performances of dramatic works, works expressed by means of technical recording, etc.

Copyright also exists in collections or adaptations of unprotected works, provided they reflect a personal adaptation or systematization of the works in question (Art. 487 CCR). The author of a collection who has personally carried out the adaptation or systematization of works included in a collection which are still protected shall enjoy copyright in respect of the collection, subject to respect for the rights of the authors of the original works.

The translator enjoys copyright in his translation (Art. 102).

The copyright law contains no provisions on industrial designs, type faces or typographical arrangement.

Works not protected

Laws, legal decisions, other official documents and works of folklore, the authors of which are unknown, are not protected by copyright (Art. 487 CCR).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the author and his successors in title (Art. 97).

Copyright is recognized in the case of legal entities within the limits fixed by the legislation of the USSR and of the Union Republics (Art. 100).

Copyright in a work created by the joint effort of two or more persons belongs to the co-authors in common, independently of the fact that the work is composed of self-sufficient parts or that it constitutes an indivisible whole; however, each co-author retains copyright in the part having the character of autonomous creation (Art. 99).

Copyright in scientific collections, encyclopedic dictionaries, reviews or other periodicals as a whole belongs to the organization which published them, either by themselves or through the intermediary of a publishing house, without prejudice to the copy-

right of authors in their work included in such publications (Art. 485 CCR).

Copyright in a cinematographic or television film belongs to the enterprise which made the film; the author of the scenario, the composer, the producer, the chief operator, the artistic director and the authors of other contributions forming a constituent part of the film enjoy copyright in respect of their works. Copyright in broadcast transmission belongs to the transmitting organization, without prejudice to the copyright in the works included in the transmission (Art. 486 CCR).

Articles 503 and 508 to 512 CCR provide in detail for the rights and obligations of the parties under an author's contract to deliver a work for utilization, whereby the author undertakes to create and deliver a work for utilization in the manner stipulated. The categories of author's contracts listed in Article 504 CCR include the contract to commission an artistic work with a view to public exhibition; Article 513 CCR states that the author retains copyright in such a work; the person, however, who ordered the work of art is entitled to display it without paying any supplementary compensation to the author. Article 515 CCR states that architectural, engineering and other technical plans made to the order of an organization may be used by the same for its own needs, or transmitted to third parties for use, without obligation to pay supplementary compensation to the author.

The authors of a work created by virtue of a contract for service within a scientific or other organization enjoy copyright in respect of such work. The conditions of exploitation of such work and the method of remuneration should be determined by the legislation of the USSR and the Union Republics (Art. 100). Relevant provision is only to be found in the Civil Code of the Kazakh Union Republic (Art. 481), which states that " the author of a work created within the scope of his employment in a scientific or other organization may within the first two years of its completion decide whether to publish it or otherwise use it only with the consent of the scientific institution or organization which assigned him to write the work in the first place. "

4. Rights granted

Economic rights

The author has the right to publish, reproduce and to distribute his work by all lawful means and to be remunerated for the utilization of the work by other persons, except in cases specified by law. The rates of remuneration shall be fixed by the legislation of the USSR and the Union Republics (Art. 98). In the absence of an official rate, the compensation to be paid to the author is determined by agreement (Art. 479 CCR).

Translation of a work for the purpose of publication is subject to the consent of the author (Art. 102). Article 491 CCR explicitly specifies the right to compensation also regarding the utilization of a work in translation.

Moral rights

The author has the right to utilize his work under his name, or pseudonymously or anonymously; he also has the right to the inviolability of the work (Art. 98). Article 480 CCR prohibits any distortion of the work, and also adding to the work, upon its publication, illustrations, prefaces, postfaces, commentaries or explanations of any kind, without the consent of the author.

Droit de suite

No provisions.

5. Limitations on copyright

Uses permitted without payment

The following uses of works are authorized without the author's consent and without payment, but with obligatory mention of the name of the author and of the source: utilization for the creation of a distinct (new) work, other than conversion of a story into a dramatic work or scenario, or of a dramatic work into a scenario, and vice versa (Art. 103(1)); reproduction of works published separately and portions thereof in scientific and critical compilations, in scholarly publications and in popular and social works, within the limits specified by the legislation of the Union Republics (Art. 103(2)), whereby Article 492(2) CCR specifies the limits regarding quotations by referring to the purpose of the publication and concerning other forms of reproduction by not allowing more than a total of one author's sheet (40,000 typographical characters) from the works of one author; communication in periodicals and by way of cinema, broadcasting and television of works already published (Art. 103(3)); reproduction by means of cinema, broadcasting and television of speeches delivered in public and of debates and of published literary, scientific and artistic works (Art. 103(4)); reproduction in newspapers of speeches delivered in public, of reports and of published literary, scientific and artistic works, in the original or in translation (Art. 103(5)); reproduction in any manner, other than mechanical contact copying, of works of sculpture located in public places other than exhibitions and museums (Art. 103(6)); reprographic reproduction on a non-profit-making basis of printed works for scientific, educational and instructional purposes (Art. 103(7)); publication of published works by means of raised-dot characters for the blind (Art. 103(8)). According to Article 493 CCR, reproduction or other utilization of a published work for personal use is likewise free.

Uses permitted against payment (legal license)

The following acts are permissible without the consent of the author, but with obligatory mention of his name and against payment: public performance of published works; if, however, an admission fee is not charged, the author has the right to remuneration only in cases determined by the legislation of the Union Republics (Art. 104(1)); the recording of published works upon films or by any other means,

with a view to public reproduction or diffusion other than utilization in cinema or by broadcasting or television (Art. 104(2)); utilization of published literary works by composers for the creation of musical works with words (Art. 104(3)); utilization of plastic and photographic works for industrial products; in these cases, the indication of the author's name is not required (Art. 104(4)).

Other limitations

The competent organs of the USSR may, in conformity with the relevant legislation of the Union, authorize translation of a work and publication of this translation, subject to the provisions of international treaties to which the USSR is party (Art. 102).

The State may purchase the copyright in a published work from the author or his heirs according to procedure determined by the laws of the Union Republics (Art. 106). According to Article 501 CCR, a special decision to this end has to be taken in each case by the Council of Ministers of the Soviet Socialist Federative Republic of Russia.

6. Term of protection

Copyright is valid for the lifetime of the author and for 25 years after his death from January 1st of the year following the year of the author's death (Art. 105). According to Article 497 CCR, the term of protection of copyrights of co-authors is to be calculated separately for each of them.

Article 498 CCR provides for unlimited duration of copyrights belonging to organizations. According to Article 502 CCR, when the period of copyright protection has expired, the work can be declared to be the property of the State by a decision of the Council of Ministers of the Soviet Socialist Federative Republic of Russia.

Article 481 CCR provides for defending the integrity of works after the expiration of copyright by the organization to whom the protection of author's rights is entrusted.

The legislation of the Union Republics may fix a more restricted duration of copyright in photographic works and works of applied art; these periods may not be less than 10 years from the date of publication by means of reproduction (Art. 105). Five Union Republics have fixed restricted periods accordingly: Azerbaidzhan, 10 years; Moldavia, Uzbekistan, 15 years; Georgia, 20 years; Kazakhstan, 10 years for photographic works and 15 years for collections of photographs (not for works of applied art).

7. Transfer of rights

Except for cases enumerated in the law, the exploitation of a work (including the translation thereof) by third parties can only be authorized by contract with the author or his successors in title. The author's contract may be of two types: the author's contract on the transfer of a work for use, and the author's license contract. Contracts for the exploitation of a work are drawn up in conformity with the procedure established by the legislation of the USSR or the Union Republics. Contractual provisions making the position of the author less favorable than provided for by the Law or by the standard type of contract are null and void and are replaced by the legal provisions or by the standard type of contract (Art. 101).

Article 506 CCR provides for standard contracts, which are approved after agreement with the interested departments and with the unions of creative persons, in accordance with the procedure established by the Council of Ministers of the Soviet Socialist Federative Republic of Russia.

As regards translation or adaptation of a work, Article 516 CCR specifies that the conditions of the respective license contract are determined by the parties if there is no provision to the contrary in the legislation.

Copyright passes to the heirs. The legislation of the Union Republics determines that the right of the author to his name and the right to the inviolability of his work are not transferred by inheritance (Art. 496 CCR). According to Article 481 CCR, these rights are protected after the death of the author, either by the person designated by him or, in the absence of relevant testamentary provisions, by his heirs and by the organizations to whom the protection of authors' rights is entrusted.

8. Domaine public payant

No provisions.

9. Neighboring rights

There are no special provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

No agencies set up under the copyright laws themselves. Competence and activities of the All Union Copyright Agency (VAAP) are governed by the statute of the said Agency, created by 14 organizations, including the unions of creative persons.

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from May 27, 1973.

12. Bilateral agreements

Copyright Agreement with Hungary, as from January 1, 1978; superseded the previous Agreement (1968 to 1977).

Copyright Agreement with Bulgaria, as from January 1, 1975; superseded the previous Agreement (1972 to 1974), prolonged and amended as of January 1, 1975.

Copyright Agreement with the German Democratic Republic, as from January 1, 1974.

Copyright Agreement with Poland as from January 1, 1975.

Copyright Agreement with Czechoslovakia, as from March 18, 1975.

13. Applicability to foreigners not covered by conventions or agreements

Foreign successors in title of authors who are citizens of the USSR enjoy copyright on the territory of the USSR only if this right has been transferred to them in accordance with the legislation of the USSR (Art. 97).

Spain

1. Official title and date of current legislation

Law concerning Intellectual Property, of January 10, 1879.

Regulations for the Application of the Law, of September 3, 1880, as amended up to October 7, 1919.

2. Works eligible for protection

General eligibility criteria

Copyright includes any scientific, literary or artistic works, whatever be the manner of their manifestation (Art. 1). All works produced or capable of publication by any means of printing or reproduction are deemed to be works for the purposes of the Law (Reg.: Art. 1). Publication of a work is not necessary to secure copyright (Art. 8).

Registration in the *Registro General de la Propiedad Intelectual* [General Copyright Register] is necessary for the enjoyment of the benefits of the Law (Art. 36). Detailed provisions relating to the Register are contained in Articles 33 to 37 of the Law and in Articles 22 to 40 of the Regulations.

Works of pictorial, sculptural or plastic art are excluded from the obligation of registration and deposit (Art. 37).

With regard to cinematographic works, the procedure for registration and deposit has not yet been regulated.

Moreover, the requirement of registration is rendered inoperative, in relation to works published abroad, by application of the multilateral conventions to which Spain has subscribed.

Special categories of works

Cinematographic works are protected under the Law on Intellectual Property Rights in Cinematographic Works, No. 17, of May 31, 1966.

Other categories of works, including translations and other derivative works (Art. 2), are protected under the general rules.

The Law contains no specific provisions on photographic works, works of applied art, designs, type faces, typographical arrangement or works of folklore. Lower-level provisions nevertheless exist that grant the protection of the Law on Intellectual Property to photographs (Ministerial Order of January 9, 1953).

3. Beneficiaries of protection (copyright owners)

Generally, copyright belongs to authors; however, it belongs to the publishers in respect of hitherto unpublished works whose owner is not known or which have passed into the public domain (Arts. 2 and 3). The benefits of the Law also apply to the State, its official bodies and any legally established institutes (Art. 4). The publisher of anonymous or pseudonymous works possesses rights similar to those enjoyed by authors (Art. 26).

The proprietors of periodicals must submit copies of issues to the Copyright Registry in order to acquire copyright therein (Art. 29).

As for the cinematographic works, authors thereof are considered to be: the authors of the plot, of the adaptation, of the scenario, of the dialogues, of the musical composition and, where relevant, of the text; the director of the film; other physical persons who by their intellectual creation participate in the realization of the work. However, the exclusive exercise of the right of economic exploitation belongs to the producer (1966 Law, Arts. 1 and 3).

4. Rights granted

Economic rights

A work cannot be reproduced without the permission of the copyright owner (Art. 7). Dramatic and musical works may not be publicly performed without such permission (Art. 19).

The exercise of the rights belonging to the producer of a cinematographic work includes the right to reproduce the film and to project copies thereof in public (1966 Law, Art. 1 — see under 3 above, last paragraph). The persons regarded by the Law as the authors of a cinematographic work enjoy the right to collect a percentage of the receipts derived from the public exploitation of the film (1966 Law, Art. 4, and Decree No. 307, of February 16, 1967).

Moral rights

The names of the authors or translators of dramatic works, including those that have passed into the public domain, must be mentioned on posters or programs of performances of the works (Reg.: Art. 85), the right of the author to prohibit the publication of his name before the first performance being reserved (Reg.: Art. 86).

The authors of a cinematographic work enjoy the right to have their names mentioned, in respect of their contribution, in the credit title of the film (1966 Law, Art. 4).

Enterprises which, when effecting the public performance of a dramatic or musical work, announce it with a change in title, or suppress, add to or alter certain passages thereof, without the permission of the author, are deemed infringers of copyright (Art. 24).

An author who alienates a dramatic work retains the right to supervise its faithful reproduction or performance, but without prejudice to the like right which the owner may also exercise in this respect (Reg.: Art. 69). No literary or musical work may be performed, in whole or in part, in any public place, in any form other than that in which it was published by its author (Reg.: Art. 70). Theatrical enterprises may not make variations or additions to or omissions from the texts of works without the permission of the authors (Reg.: Art. 87). Every author retains the right to correct and recast his works, even after they have been alienated (Reg.: Art. 66).

The author of a literary work which has been performed in public may prohibit further performance completely and absolutely if he considers that such performance would be harmful to his moral or political feelings, without prejudice, if the work has been alienated, to appropriate compensation of the owner of the work and the co-authors or co-owners, if any (Reg.: Art. 93).

No person other than the author has the right to publish his work (Art. 8). The author of a work not entered in the Copyright Register may, within the period established in the Law, prevent its publication by third parties by way of sanction, and also its passage into the public domain, by means of a formal indication of his wish that the work be not disclosed to the public, which right may also be exercised by the author's heirs, subject to approval by the family council (Art. 44).

Droit de suite

No provisions.

5. Limitations on copyright

Parts of a work which are necessary for the purpose may be quoted in commentaries, criticisms or notes (Art. 7). Parliamentary speeches may, without the permission of their authors, be reprinted in the Parliamentary Journal and in political periodicals (Art. 11). Parties in a litigation may not publish papers filed in their names without the permission of the court rendering the decision (Art. 16). Laws, decrees, etc., may be included in periodical publications or quoted in an appropriate manner in other works; they cannot, however, be published separately or as a collection without the permission of the Government (Art. 28). Writings included in periodical publications may, with the indication of source, be reproduced in similar publications, provided that reproduction is not expressly prohibited (Art. 31). Drawings, engravings, lithographs, music and other artistic works contained in periodical publications, and novels and scientific, literary and artistic works, even when published in portions or installments, are, without the necessity of making any reservation of rights, excepted from the application of the above rule (Reg.: Art. 19).

6. Term of protection

Copyright belongs to authors during their lifetime and to their testamentary heirs or legatees for a term of 80 years (Art. 6).

Works not entered in the Copyright Register within one year (Art. 36) may, during a period of 10 years, be republished through reprinting (Art. 38). If a further period of one year elapses without the author or his successor in title having entered the work in the Register, the work passes definitely into the public domain (Art. 39).

Works not republished by their owner over a period of 20 years pass into the public domain and may be reproduced without alteration (Art. 40). Such works do not, however, pass into the public domain if: (i) in the case of dramatic, dramatico-musical or musical works, they have been publicly performed and a manuscript copy thereof deposited in the Registry; (ii) there is proof by the owner that over the said period copies of the work have been on sale to the public (Art. 41).

7. Transfer of rights

Copyright is inheritable (see under 6 above, first paragraph) and transferable *inter vivos*. If there are compulsory heirs, the rights of the assignee end 25 years after the death of the author and pass to such heirs for the remaining period of 55 years (Arts. 2(5) and 6).

The author is entitled to publish all or part of his work in a collection, even if he has partly alienated it (Art. 32).

Every transfer must be incorporated in a public deed and registered; otherwise, the transferee is not entitled to the benefits of the Law (Reg.: Art. 9).

Detailed provisions concerning the transfer of rights in dramatic and musical works are contained in Articles 73 to 119 of the Regulations.

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the protection of the rights of performers, producers of phonograms or broadcasting organizations. However, the Decree of July 10, 1942, confers upon phonograms the character of works protected by the Law.

10. Agencies set up under law and their function

Besides the *Registro General de la Propiedad Intelectual* [General Copyright Registry], which at present is responsible to the Ministry of Culture, and the functions of which are confined to the registration of works and instruments or contracts associ-

ated therewith (Ministerial Order of February 15, 1949, Art. 1), in accordance with the provisions laid down in Articles 33 to 37 of the Law and 22 to 40 of the Regulations, the *Sociedad General de Autores de España* [General Society of Authors of Spain] deserves to be mentioned for its special importance. The Law of June 24, 1941, entrusted to this Society, solely and exclusively, the representation and management of copyrights in the entire territory of Spain and abroad. Its current statues are those approved by Decrees Nos. 1163 of May 16, 1963, and 220 of July 24, 1975. Basically, it administers the rights of authors of dramatic, cinematographic and audiovisual works, music composers, lyric writers and music publishers.

11. Relevant multilateral conventions

Berne Convention, Paris Act, 1971, as from February 19, 1974 (administrative provisions) and October 10, 1974 (substantive provisions).

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

Montevideo Copyright Convention, 1889, in relations with Argentina and Paraguay, since 1900.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from January 4, 1974.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from August 24, 1974.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), as from October 23, 1971.

12. Bilateral agreements

Copyright treaties with France (1880), Italy (1880), Portugal (1880), El Salvador (1884), Colombia (1885), Guatemala (1893), Costa Rica (1893, with the 1896 Protocol), Ecuador (1900), Panama (1912), Peru (1924), Paraguay (1925), Dominican Republic (1930), Nicaragua (1934) and Bolivia (1936). Exchange of Notes with the United States of America (1895, confirmed in 1902).

Copyright provisions in treaties with the Dominican Republic (1953), Ecuador (1953), Uruguay (1970) and Nicaragua (1975).

Exchange of Notes concerning the extension of the term of protection, with Norway (1956 and 1968), France (1957), Italy (1957) and Austria (1959).

13. Applicability to foreigners not covered by conventions or agreements

Nationals of States whose legislation grants to Spanish nationals rights corresponding to those granted by the Law enjoy in Spain the rights which the same Law accords, without the necessity of any treaty or diplomatic negotiations; these rights are asserted by private action instituted before the competent judge (Art. 50). The same protection of foreign works subject to the principle of reciprocity is established in Article 15 of the Law and in Article 7 of the 1966 Law on Cinematographic Works.

Notwithstanding the above, account has to be taken of Article 10(4) of the Civil Code (as revised by the Decree of May 31, 1974), which provides that intellectual property rights are protected within the territory of Spain in accordance with Spanish law (without prejudice to the international conventions and agreements). The latter provision, which is based on the principles of the Berne Convention, has as its eligibility criterion under international law that of the place in which protection is sought, without the application of the law concerned being conditioned by the principle of reciprocity. This could be conceived as a derogation, somewhat more restrictive in character, from the Law on Intellectual Property. However, there is no jurisdictional basis to support the theory of derogation fully.

Sweden

1. Official title and date of current legislation

Law No. 729, of December 30, on Copyright in Literary and Artistic Works, as amended up to May 25, 1973.

Law No. 730, of December 30, 1960, on Rights in Photographic Pictures, as amended up to May 25, 1973.

2. Works eligible for protection

General eligibility criteria

A person who has created a literary or artistic work has copyright therein (Art. 1). The provisions of the Law apply to works of Swedish subjects or persons who have their habitual residence in Sweden, and to works first published in Sweden (Art. 60).

No formalities are required.

Special categories of works

The protection of photographs is provided for in a special law (see under 1 above), which contains detailed provisions on the rights granted and their limitation.

Translations and adaptations are protected; the right to control them is, however, subject to the copyright in the original work (Art. 4). Similarly, composite works are protected without restricting the rights in combined individual works (Art. 5).

Cinematographic works and works of applied art are protected according to the general rules (Art. 1).

If a work has been registered as a design, copyright may nevertheless be claimed in it (Art. 10).

Catalogues, tables and similar compilations may not be reproduced without the consent of the producer during 10 years from the year of their publication (Art. 49).

The Law contains no specific provisions on type faces or works of folklore.

Works not protected

Laws and decisions by public authorities, reports issued by Swedish public authorities, and official translations thereof, are not subject to copyright (Art. 9).

3. Beneficiaries of protection (copyright owners)

Copyright belongs to the person who has created a literary or artistic work (Art. 1). The person whose name or generally known pseudonym or signature is stated in the usual manner is, in the absence of proof to the contrary, deemed to be the author (Art. 7).

If a work has two or more authors whose contributions do not constitute independent works, the copyright belongs to the authors jointly (Art. 6).

In the absence of an express agreement to the contrary, the right in a photographic picture made on commission belongs to the person who commissioned it (Phot.: Art. 14).

4. Rights granted

The *economic rights* include the exclusive right to control a work by producing copies thereof (including the recording of the work) and by making it available to the public. A work is made available to the public by public performance or by having copies of it placed on sale, leased, loaned or otherwise distributed or publicly exhibited (Art. 2).

The *moral rights* include, in addition to the right to claim authorship, the right to oppose any change or any making available to the public in a form or context prejudicial to the author's literary or artistic reputation, or to his individuality (Art. 3).

A person who produces a photographic picture has the exclusive right to make copies thereof by photography, printing, drawing, or other process, or to exhibit it publicly (Phot.: Art. 1). The photographer enjoys also moral rights (Phot.: Art. 2).

The Law contains no provisions on *droit de suite*.

5. Limitations on copyright

Uses permitted without payment

A disseminated work may be reproduced in single copies for private use (Art. 11) or quoted, in accordance with proper usage, to the extent necessary for the purpose (Art. 14). It is also permitted to reproduce articles in newspapers and periodicals on current religious, political or economic topics (unless reproduction is expressly prohibited) as well as disseminated works of art in connection with the reporting of a news event (Art. 15), to make sound recordings of disseminated works for occasional use in educational activities (Art. 17), to reproduce published works in braille (Art. 18), to perform publicly published works (other than dramatic or cinematographic ones) at divine services and in connection with education (Art. 20) and to reproduce brief excerpts of works seen or heard in the course of current events (Art. 21). Similar limitations are provided for with regard to various uses of photographic pictures (Phot.: Arts. 5 to 10, 12 and 13). Archives and libraries may make photographic reproductions of works for the purpose of their activities, under the conditions stated in the Decree No. 348, of June 2, 1961 (Art. 12; Phot.: Art. 6). Ephemeral recordings are permitted under certain conditions (Art. 22; Phot.: Art. 11).

Uses permitted against payment (legal license)

If a radio or television organization has an agreement with an organization representing a large number of Swedish authors in a certain field on the right to broadcast works, it may, subject to payment of compensation, broadcast also published works of authors not represented by the organization; this, however, does not apply to dramatic works nor to works for which the author has prohibited broadcast or where there is reason to assume that the author will oppose the broadcasting (Art. 22).

Disseminated works of art may be reproduced in connection with the text of a critical or learned treatise (Art. 14), and minor parts of literary or musical works may be reproduced in a composite work (Art. 16); in both cases authors are entitled to remuneration under certain conditions.

A certain remuneration is paid to Swedish authors for the use of their works in public libraries.

6. Term of protection

The general term of protection is 50 years after the year in which the author died (Art. 43). The same rule applies to photographic pictures of an artistic or scientific value; other photographs are protected 25 years after the year in which they were produced (Phot.: Art. 15).

7. Transfer of rights

Copyright may, subject to the author's moral rights, be transferred entirely or partially (Art. 27). The Law contains detailed provisions on public performance contracts (Art. 30), publishing contracts (Arts. 31 to 38) and film contracts (Arts. 39 and 40); these provisions apply only in the absence of other agreement (Art. 27).

After the author's death, the rules governing matrimonial property, inheritance and wills apply to copyright (Art. 41).

8. Domaine public payant

No provisions (see, however, under 5 above, last paragraph).

9. Neighboring rights

Performances of literary or artistic works may not be recorded or broadcast without the consent of the performing artist; sound or video recordings of his performance may not be reproduced without his

consent (Art. 45). Sound recordings may not be copied without the consent of the producer (Art. 46). If a sound recording is used for a radio or television broadcast, a compensation is payable both to the producer of the recording and to the performer whose performance is recorded (Art. 47). Radio or television broadcasts may not be rebroadcast or recorded without the consent of the radio or television organization. Recordings may not be copied without the consent of the broadcasting organization (Art. 48).

The term of protection as regards copying and compensation for radio and television broadcasts is 25 years. Limitations similar to those referred to under 5 above are applicable.

10. Agencies set up under law and their function

No provisions. There exists, however, a number of trade unions and organizations of authors, etc., and also collecting societies, e. g., as regards rights in music and remuneration for photocopying in educational institutions.

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from September 20, 1973 (administrative provisions) and October 10, 1974 (substantive provisions).

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from July 1, 1961.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 6(2), 16(1)*(a)*(ii) and (iv), 16(1)*(b)* and 17, as from May 18, 1964.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, with a declaration under Article 7(4), as from April 18, 1973.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), with reservations under Article 3(1)*(b)*, *(c)* and *(f)*, as from July 1, 1961.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from October 19, 1967.

12. Bilateral agreements

None.

13. Applicability to foreigners not covered by conventions or agreements

On condition of reciprocity, the Government may provide for the application of the Law in relation to other countries, or to works of international organizations (Art. 62; Phot.: Art. 23). Such provisions are given in Decree No. 529 of May 25, 1973, on the Application of the Laws of December 30, 1960, on Copyright in Literary and Artistic Works and on Rights in Photographic Pictures in respect of other countries, etc. As regards the so-called neighboring rights, Sweden applies the criterion of territoriality, i.e., protects performances, etc., depending on where they take place.

The provisions relating to the use of a title, pseudonym or signature which may be confused with that of another work or author (Art. 50) or the public performance or reproduction which violates cultural interests (Art. 51) apply to all works regardless of their origin (Art. 60).

Switzerland

1. Official title and date of current legislation

Federal Law concerning Copyright in Literary and Artistic Works, as amended up to June 24, 1955.

2. Works eligible for protection

General eligibility criteria

Literary and musical works are protected even when they are not written or fixed in any other manner unless, by their nature, they are only capable of existence as a consequence of fixation (Art. 1).

The Law protects the works of Swiss nationals, whether published in Switzerland or abroad, as well as their unpublished works, and the works of foreign authors published for the first time in Switzerland (Art. 6).

No formalities are required.

Special categories of works

The works protected by the Law include cinematographic and photographic works, works of applied art, designs and models in so far as they are considered artistic works, derived works (translations and other adaptations) and compilations, without prejudice to the copyright in the original or each of the individual works (Arts. 1 to 5).

When a literary or musical work is adapted by the personal action of performers to instruments serving to recite or to perform the work mechanically, such adaptation constitutes a reproduction protected by law (Art. 4).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

The Law does not apply to laws, ordinances and other decrees, to discussions, decisions and reports of public authorities, to reports of public administrations or to the specifications of patents (Art. 23).

3. Beneficiaries of protection (copyright owners)

In the absence of proof to the contrary, the natural person whose name is indicated on copies of the work or who is designated as the author at the time of the public recitation, performance or exhibition of the work is deemed to be the author (Art. 8).

Persons who have jointly created a work in such a manner that their respective contributions cannot be separated possess common copyright in the work (Art. 7). In the case of public performance of a musical work with words, the owner of the right of performance in respect of the musical work is deemed, in relation to third parties, also to have the right of authorizing the performance of the words (Art. 34).

4. Rights granted

Copyright includes the exclusive right to reproduce the work by any process, to sell copies or put copies into circulation, to recite, perform or exhibit the work publicly or to transmit publicly by wire the performance, etc., to broadcast the work and to communicate the broadcast work publicly, by wire or otherwise (Art. 12). The right of reproduction includes the right to translate the work, to adapt it to instruments serving to perform it mechanically or to reproduce it by cinematography (Art. 13).

It is prohibited to apply the name of the author to the copies of a reproduction not originating from the author himself, and to fail to indicate the source in cases where the Law so requires (Art. 43). The Law does not contain any other specific provisions on moral rights or *droit de suite*. By virtue of Article 68bis, however, Swiss authors may enjoy the protection of moral rights provided for in Article 6bis of the Berne Convention.

5. Limitations on copyright

Uses permitted without payment

The Law contains detailed provisions on reproduction for private use (Art. 22) and the reproduction under certain conditions of speeches delivered at public meetings (Art. 24), of topical articles relating to economics, politics or religion, published in newspapers or magazines (Art. 25), of brief fragments of works in connection with accounts of topical events (Art. 33bis), of literary or musical works in scientific works (Art. 26), of literary works in school textbooks (Art. 27), of musical or dramatic works for the purposes of performance (Art. 28), of the text of musical works for distribution to the audience (Art. 32) and of works of art or photography in books intended for teaching and in catalogues (Art. 30). The conditions under which authorized reproductions may be used, and copies not made public exhibited, are specified in Articles 31 and 33.

The commissioned portrait of a person may not be reproduced or put into circulation without the authorization of the person portrayed; this authorization may be given even without the consent of the owner of the copyright (Arts. 29 and 35).

Compulsory licenses

The Law contains detailed provisions (Arts. 17 to 20) on the right of any person having an industrial establishment in Switzerland to request, against payment of an equitable indemnity, authorization to adapt a musical work to instruments serving to perform it mechanically when the author of the work has already given a like authorization and when the instruments in question have been placed on the market; this license is also applicable under certain conditions to the text of a musical work.

6. Term of protection

Protection terminates 50 years after the death of the author (Art. 36). If the work is anonymous or if the author uses a pseudonym by which he cannot be identified, the term is counted from the time when the work is made public (Art. 37).

For works of joint authorship, the term is counted from the year of the death of the last surviving co-author (Art. 39).

In all cases the date of expiration of protection is calculated from December 31st of the year in which the event which serves as the basis of calculation takes place (Art. 41).

7. Transfer of rights

Copyright is assignable and can be transmitted to heirs (Art. 9).

Title XII of the Code of Obligations (Arts. 380 to 393) contains detailed provisions on publishing contracts.

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions concerning the protection of broadcasting organizations.

As for performers and producers of phonograms, see under 2 above (Art. 4).

10. Agencies set up under law and their function

The Federal Law concerning the Collection of Copyright Royalties, of September 25, 1940, provides that the exclusive right to publicly perform musical works with or without words — which also includes the right to broadcast them — may only be exploited with the authorization and under the supervision of the Federal Council or the authority designated by it.

According to the Regulations concerning the Collection of Royalties, of February 7, 1941, as amended up to December 21, 1956, the Federal Department of Justice and Police is the body competent to give authorization for the management of copyright (Art. 1), whereas the Federal Bureau of Intellectual Property is responsible for ensuring the implementation of the Law (Art. 6). A Federal Arbitral Commission is competent to approve rate

schedules and give advice to the courts, the supervising authority and interested parties on litigious questions (Art. 12).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from January 2, 1956 (substantive provisions); Stockholm Act, 1967, as from May 4, 1970 (administrative provisions).

Universal Copyright Convention, 1952, as from March 30, 1956.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from September 18, 1976.

12. Bilateral agreements

Copyright provisions in treaties with Colombia (1908), Liechtenstein (1923), Costa Rica, Ecuador and Tanzania (1965), Czechoslovakia, the Republic of Korea and Uganda (1971), Hungary (1973), Indonesia (1974), Jordan and Syria (1976).

13. Applicability to foreigners not covered by conventions or agreements

The works of foreign authors published for the first time in a foreign country are protected only where the country in question grants similar protection to Swiss nationals. The Federal Council decides if and to what extent this condition is fulfilled (Art. 6). According to a Federal Council Decree of September 26, 1924, the Law is applicable, with certain restrictions, to works published for the first time in the United States of America.

Thailand

1. Official title and date of current legislation

Act for the Protection of Literary and Artistic Works, of June 16, 1931.

2. Works eligible for protection

General eligibility criteria

Literary and artistic works are protected if: (i) in the case of a published work, the work was first published in Thailand; and (ii) in the case of an unpublished work, the author was a national or resident of Thailand (Art. 5).

No formalities are required, except for foreign works (as prescribed by the laws of the country of origin) (Art. 29*(a)*).

Special categories of works

Cinematograph productions are protected as literary or artistic works if, by the arrangement of the acting form or the combination of incidents related, the author has given the work a personal and original character. If that is not the case, they enjoy protection as photographic works (Art. 10).

The term " literary and artistic works " includes choreographic works and entertainments in dumb show if their acting form is fixed in writing or otherwise (Art. 4).

Translations, adaptations, arrangements of music and other reproductions in an altered form, as well as collections, are protected as original works (Art. 6).

The Act contains no specific provisions on works of applied art, type faces, typographical arrangement or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of a work is the owner of the copyright therein. However, in the absence of any agreement to the contrary, *(a)* where, in the case of engravings, photographs or pictures, the original was ordered by some other person and was made for valuable consideration, such person is the owner of the copyright; *(b)* where the author was in the employment of some other person and the work was made in the course of his employment, the employer is the owner of the copyright; *(c)* where a work has benn prepared or published by or under the direction or control of the Government, the copyright belongs to the Government (Art. 12).

4. Rights granted

Copyright includes the right to produce, reproduce, perform, deliver, publish, translate, adapt or record a work, or — in the case of a literary, dramatic or musical work — to make a cinematograph film of it (Art. 4).

The Act contains no provisions on moral rights or *droit de suite.*

5. Limitations on copyright

The following acts do not constitute infringement: fair dealing for the purposes of private study, research, criticism, review or newspaper summary; reproduction, by way of painting, drawing, engraving or photography, of works of sculpture or artistic craftsmanship permanently situated in a public place, or of architectural works of art; publication, in collections intended for educational or scientific purposes, or for chrestomathies, of extracts from published works; publication in newspapers of reports of a lecture, address or sermon delivered in public (Art. 20).

6. Term of protection

The general term of copyright is the lifetime of the author and 30 years thereafter (Art. 14), subject to the " ten-year rule " (Berne Convention) in the case of translation of literary or dramatic works (Art. 29*(b)*). The term of copyright for photographic

works, records and cinematograph films is 30 years from their making (Arts. 16 to 18). The term of copyright for newspapers is, for each separate issue, 30 years from the date of such issue (Art. 19).

7. Transfer of rights

Copyright is transferable by inheritance or otherwise. It can be assigned either wholly or partially, for the whole term of copyright or for any part thereof. No assignment or license is valid unless it is in writing (Art. 13).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act contains no specific provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations (see, however, under 6 above, the term of copyright for records).

10. Agencies set up under law and their function

No provisions.

11. Relevant multilateral conventions

Berne Convention: Berlin Act, 1908, with reservations concerning works of applied art, conditions and formalities required for protection, the right of translation, the right of reproduction of articles published in newspapers or periodicals, the right of performance and the application of the Convention to works not yet in the public domain at the date of its coming into force, as from July 17, 1931.

12. Bilateral agreements

Copyright provisions in the treaties concluded with Denmark, Germany, Norway and the United States of America (all in 1937) and with the Netherlands (1938).

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

Tunisia

1. Official title and date of current legislation

Law Relating to Literary and Artistic Property, No. 66-12, of February 14, 1966, as amended up to January 4, 1967.

2. Works eligible for protection

General eligibility criteria

Copyright subsists in all original literary, scientific or artistic works, irrespective of their value, purpose, manner or form of expression (Art. 1).

The Law applies: (1) to the works of Tunisian nationals, authors domiciled or having their habitual residence in Tunisia and bodies corporate under Tunisian jurisdiction; (2) to works published for the first time in Tunisia; (3) to works of architecture erected on the territory of Tunisia (Art. 37).

No formalities are required.

Special categories of works

Article 1 contains a non-limitative list of the categories of works protected; it includes cinematographic and photographic works, tapestries and articles of artistic handicraft and applied art, designs and models, translations, arrangements and adaptations and works inspired by folklore.

Folklore as such forms part of the national heritage. Direct or indirect fixation of folklore, with a view to its exploitation for profit-making purposes, requires the authorization of the Department in charge of cultural affairs (except in the case of public national organizations (Art. 6).

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

The author of a work is, in the absence of proof to the contrary, the person under whose name it is disclosed (Art. 3). The authors of translations, adaptations, new versions or arrangements enjoy protection, without prejudice to the copyright in the original work (Art. 5).

When the agents of a public corporation produce a work within the framework of their functions, the copyright belongs to those agents, subject to any stipulation to the contrary (Art. 3).

The copyright in a cinematographic work belongs to the producer, that is, the natural person or legal entity who takes the initiative in production and the responsibility for the exploitation of the work (Art. 21).

4. Rights granted

Economic rights

Copyright includes the exclusive right to reproduce the work in any material form, to communicate it to the public by performance or broadcasting, to communicate the broadcast of the work to the public by wire, loudspeaker or any other instrument, and to make any translation or adaptation of it (Art. 2).

Moral rights

In the absence of a stipulation to the contrary, the name of the author must be stated in the manner required by proper practice. The work may not be modified in any manner without the written consent of its author, neither may it be made accessible to the public in any form or circumstances injurious to the author (Art. 7).

Droit de suite

The authors of graphic and plastic works have a right to a five-percent share in the proceeds of any sale of their original works effected at public auctions or through the intermediary of a trader (Art. 17).

5. Limitations on copyright

Uses permitted without payment

When the work has been lawfully made accessible to the public, the following are permitted: (i) communications that are private and free of charge and those made free of charge for educational purposes, as well as reproductions, translations and adaptations destined exclusively for personal and private use (Art. 8); quotations and borrowings compatible with fair practice (Art. 9). The following are also lawful: sound or sound and visual recordings destined for schools (Art. 10); the reproduction of articles on current political, social or economic topics, unless reproduction is expressly prohibited (Art. 12); recording, reproduction and communication to the public in the reporting of a current event by means of photography, cinematography or broadcasting (Art. 13); the reproduction and communication to the public of works of plastic art and of architecture permanently located in a public place or included in a film or broadcast only in an incidental way (Art. 14); ephemeral recording by the *Radiodiffusion Télévision Tunisienne*, subject to certain conditions (Art. 15).

Compulsory licenses

The Department in charge of cultural affairs may authorize public libraries, educational establishments, etc., to reproduce works in numbers limited to the needs of their activities (Art. 11). The communication of works to the public and the communication to the public of broadcasts of works (see under 4 above) are legitimate if the works have already been made lawfully accessible to the public and if the author is not represented by the organization of authors referred to under 10 below (Art. 16). In both cases, equitable remuneration is fixed, in the absence of agreement, by the commission established under Article 32 (see under 10 below).

6. Term of protection

Copyright continues for the life of the author and 50 years from the end of the year of his death or, in the case of a work of joint authorship, that of the last surviving co-author (Art. 29).

For photographic and cinematographic works and anonymous or pseudonymous works, the fifty-year period is calculated from the end of the year in the course of which the work is lawfully made accessible to the public (Art. 30).

7. Transfer of rights

Provisions on contracts for the making of a cinematographic work appear in Articles 22 to 24, and on contracts for publication in graphic form (which have to be drawn up in writing) in Articles 25 to 28.

The total assignment of future works is null and void unless it has been made in favor of the organization of authors (Art. 17). The assignment of copyright in a work inspired by folklore, or an exclusive license relating to such a work, is not valid unless it has received the approval of the Department in charge of cultural affairs (Art. 6).

The *droit de suite* is inalienable.

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The administration of the rights and the safeguarding of the moral and material interests of authors are entrusted to the association called the *Société des auteurs et compositeurs de Tunisie (SODACT)* [Society of Authors and Composers of Tunisia], which alone is allowed to operate in Tunisia. This organization is placed under the authority of the Department in charge of cultural affairs (Art. 31 and Decree No. 68-283 of September 9, 1968).

A commission established under Article 32 is responsible for adjudicating on such disputes as may arise between SODACT and natural persons or legal entities wishing to obtain authorizations (see also under 5 above).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from August 16, 1975, with declaration under Article 33(2). Tunisia has availed itself of the faculties provided for in Articles II and III of the Appendix to the Paris Act.

Universal Copyright Convention, as revised in 1971, as from June 10, 1975.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from February 22, 1969.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

The protection provided for in the Law may be granted on condition that the country of which the original owner of the copyright is a national grants equivalent protection to the works of Tunisian nationals. Countries in respect of which this condition is considered to be fulfilled are determined by the Minister in charge of cultural affairs (Art. 38).

Turkey

1. Official title and date of current legislation

Law on Artistic and Intellectual Works, of December 10, 1951.

2. Works eligible for protection

General eligibility criteria

Any kind of intellectual or artistic creation which bears the characteristics of the author enjoys protection under the Law (Art. 1).

The provisions of the Law apply to all works first presented to the public in Turkey and all pictures and letters that are in Turkey, irrespective of the nationality of the authors, to all works of Turkish nationals, either presented to the public or not, and to all works of foreigners in accordance with the provisions of international treaties to which Turkey is a party (Art. 88).

No formalities are required.

Special categories of works

The main categories of protected works are listed in Articles 2 to 5; they include all works that can be expressed in any manner by the use of language, artistic works having an aesthetic quality, technical, scientific and artistic photographs, handiwork and small objects of artistic design and cinematographic works.

Adaptations, which include translations, abridgments, compilations, etc., are considered to be works if they bear the individual characteristics of the adapter (Art. 6).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

The reproduction, adaptation or any use of official publications, including laws, judicial decisions, etc., is free; speeches in the Assembly, in courts or at public meetings can be freely reproduced for information purposes (Arts. 31 and 32).

3. Beneficiaries of protection (copyright owners)

The person who created a work enjoys protection as the author (Art. 8). The person whose name or known pseudonym appears as the author in a published work or who is declared as author in a public performance, etc., is deemed to be the author. If no such name is indicated, the publisher or, as the case may be, the organizer of the performance can exercise the rights of the author (Arts. 11 and 12).

When a work is produced by officials, employees or workers as part of their duties, the person or legal entity that has appointed them or employs them is considered to be the author, unless the contrary results from a contract or from the nature of the work. Similarly, when a work is executed under a publisher's plan by one or several persons, the publisher is deemed to be the author. In the case of a cinematographic work, the author is the person who produced it (Art. 8).

In the case of joint works which are indivisible, the community of authors who created the work owns the right like in a partnership; if it is divisible, each is the owner of the part he has created (Arts. 9 and 10).

4. Rights granted

Economic rights

The property rights include the exclusive right to exploit the work in any manner: to adapt the work, to reproduce the original or an adaptation, including reproduction by records or films, to publish the original or an adaptation and to distribute copies thereof, to perform the work, to broadcast it and to communicate the broadcast to the public by wire or otherwise (Arts. 20 to 25).

Moral rights

The moral rights of the author include the right to communicate the work to the public or to disclose its contents, to claim authorship and to oppose modifications which are prejudicial to his honor or reputation (Arts. 14 to 16). The rules as to the exercise of these rights by the author and other persons are set out in Articles 18 and 19.

Droit de suite

If, after the sale of an artistic work or of the manuscript of a literary or musical work, it is resold during the period of protection, and if there is a substantial difference between the price of the last sale and the preceding one, the seller may be required, by decree, to pay an appropriate portion of the difference (not exceeding 10 percent) on resale to the author or his heirs as provided for in Article 45.

5. Limitations on copyright

Uses permitted without payment

The following are the more important acts which do not constitute infringement of copyright, subject to certain conditions specified in the relevant provision: *(a)* the use of works as proof before courts or official authorities, or by public officials for reasons of public safety (Art. 30); *(b)* the performance in public or the publication of collections of excerpts from published works for educational purposes (Arts. 33 and 34); *(c)* the quotation of passages from published works in certain circumstances (Art. 35) or the reproduction or dissemination of fragments of literary works by composers (Art. 39); *(d)* the communication to the public by any means of news or other items of information (Art. 36); *(e)* the reproduction of articles and press reports dealing with current problems of a social, political or economic nature, published in newspapers or periodicals, and of passages of works for the purpose of reporting current events (Arts. 36 and 37); *(f)* the reproduction for personal use, without profit, of works other than cinematographic works (Art. 38); *(g)* the reproduction of artistic works for explaining texts, or of such works permanently situated in public places, as well as public exhibition of artistic

works by their owners (Arts. 35 and 40); *(h)* the making of ephemeral recordings of broadcasts if permitted by decree (Art. 43).

Uses permitted against payment (legal license)

The following acts are permitted subject to payment of appropriate remuneration: *(a)* the public performance of recordings of musical or other works, where such recordings have been made with the consent of the author (Art. 41); *(b)* the manufacture of records of published musical works, if authorized by decree (Art. 44); *(c)* the broadcasting of artistic and intellectual works already published, if authorized by decree (Art. 43).

Other limitations

Under Article 47 the Government may, by decree, expropriate the property rights of the author if the work is deemed to be of value to the culture of the country, subject to payment of just compensation to the owner. This may apply only to works published in Turkey, or by a Turkish subject in a foreign country, and if copies of the work have been out of print for 2 years and the copyright owner is not likely to have a new edition published within a reasonable time.

The State, professional unions, and cultural institutions designated by the State may be granted, by decree, the right to benefit from unpublished works kept in public libraries, museums or similar institutions, provided that the author has not expressly prohibited the reproduction or publication of such works (Art. 46).

6. Term of protection

The general term of protection is the life of the author and 50 years thereafter. In the case of anonymous and pseudonymous works, the term is 50 years from the date of publication (Art. 27).

If the author is a legal entity, the term of protection is 20 years from publication (Art. 27).

In the case of cinematographic and photographic works, handiwork and small objects of artistic design, the term of protection is 20 years from the date they are made public (Art. 29).

If a work first published in a foreign language has not been translated and published in Turkish, by the author or with his authorization, within 10 years from the publication of the original, the translation into Turkish is freely permissible (Art. 28).

In all the above cases the term is counted from the beginning of the calendar year following the event (Art. 26).

The moral rights can be exercised by the author during his life, even after the expiration of the protection of his property rights (Art. 18). Their exercise after the author's death is provided for in Article 19.

7. Transfer of rights

The author may transfer his property rights, either wholly or subject to limitations in respect of duration, place or content (Art. 48). Further transfers can be made only with the written consent of the author or his heirs (Art. 49). The contract should be in writing and should specify the rights transferred (Art. 52); it should also contain warranty of the existence of the right (Art. 53).

Contractual waiver of moral rights is void (Arts. 14 and 16).

The property rights may be transmitted by way of succession and be the object of a will or other disposition *mortis causa* (Art. 63).

8. Domaine public payant

See under 6 above (*Other limitations* — Art. 46).

9. Neighboring rights

When the performance of a work is recorded on instruments for the reproduction of signs, sounds or images, such instruments may be reproduced or diffused only with the permission of the performer. If the performer is engaged by an organizer, the latter's permission is also necessary; if the performance is given by an orchestra, chorus or theater company, permission by the conductor or director will suffice (Art. 81).

Producers of instruments for the reproduction of signs, sounds or images may prohibit others from reproducing or diffusing the same signs, sounds or images by the same means; the provisions concerning unfair competition are applicable in such cases (Art. 84).

Publication of letters, etc., and exhibition of portraits are protected for 10 years from the death of the writer and the addressee, or the person portrayed, respectively (Arts. 85 and 86).

The Law contains no provisions on the protection of the rights of broadcasting organizations.

10. Agencies set up under law and their function

Authors are required to form a professional union for the purpose of safeguarding and exercising their moral and property rights and, if they omit to do so within 6 months, the Government may order such a union to be formed (Art. 42).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from January 1, 1952, with a reservation concerning the right of translation (the so-called ten-year régime).

European Agreement concerning Programme Exchange by means of Television Films, 1958, as from March 28, 1964.

12. Bilateral agreements

Copyright provisions in treaties with France (1929) and Germany (1930).

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

United Kingdom

1. Official title and date of current legislation

Copyright Act 1956 (coming into force: June 1, 1957), as amended up to February 17, 1971.

2. Works eligible for protection

General eligibility criteria

Copyright subsists in every original literary, dramatic, musical or artistic work if,

(a) in the case of a published work, the work was first published in the United Kingdom or the author was a qualified person at the time of the first publication or, if the author was dead at that time, was a qualified person immediately before his death;

(b) in the case of an unpublished work, the author was a qualified person at the time of making the work (Secs. 2 and 3).

A literary, dramatic or musical work is deemed to be made when it was first reduced to writing or some other material form (Sec. 49(4)).

The term " qualified person," in the case of an individual, means a person who is a British subject or a British protected person or a citizen of the Republic of Ireland, or a person domiciled or resident in the United Kingdom; in the case of a body corporate, it means a body incorporated under the laws of the United Kingdom (Sec. 1(5)).

No formalities are required.

Special categories of works

Adaptations, which include translations, are protected as original works (Sec. 2(5)). Sound recordings and cinematograph films, of which the maker was a qualified person at the time of making, or which are first published in the United Kingdom, enjoy copyright protection (Secs. 12 and 13). Photographs and works of artistic craftsmanship are protected as artistic works (Sec. 3(1)). Choreographic works and entertainments in dumb show, if reduced to writing, are protected as dramatic works (Sec. 48(1)). Sound and television broadcasts made by the British Broadcasting Corporation or the Independent Broadcasting Authority from a place in the United Kingdom are protected (Sec. 14(1)).

Industrial designs are protected under Section 10, as amended by the Design Copyright Act, 1968.

Publishers of published editions of literary, dramatic or musical works, the typographical arrangement of which is not a reproduction of a previous edition, are given the exclusive right to reproduce the typographical arrangement of the edition by photographic or similar process, subject to the qualifications that the publisher was a qualified person at the date of first publication of the edition or the first publication of the edition took place in the United Kingdom (Sec. 15).

The Act contains no specific provisions on type faces or works of folklore.

Works not protected

No specific provisions.

3. Beneficiaries of protection (copyright owners)

As a general rule, the author of the work is the first owner of the copyright therein.

However, in the absence of any agreement to the contrary,

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by a proprietor of a newspaper, magazine or other periodical under a contract of service or apprenticeship, and made for publication in a newspaper, magazine or other periodical, such proprietor is entitled to the copyright in so far as it relates to the publication in a newspaper, magazine or other periodical or reproduction for such publication, but in all other respects the author is the owner of the copyright;

(b) in the case of a photograph or portrait made or executed on commission, the person who so commissions and pays for the work is entitled to the copyright;

(c) in other cases of works made in the course of the author's employment under a contract of service or apprenticeship, the employer is entitled to the copyright (Sec. 4);

(d) where the work is made or first published by or under the direction or control of the Government, the Government is the owner of the copyright (Sec. 39).

4. Rights granted

Copyright in relation to a literary, dramatic or musical work includes the exclusive right to reproduce in any material form, to publish or to perform in public the work or any adaptation thereof, to broadcast the work or to cause it to be transmitted to subscribers to a diffusion service, or to make an adaptation of the work (Sec. 2(5)) and to authorize others to do any of the above acts.

In respect of an artistic work, copyright includes the right to reproduce the work in any material form, to publish it, to include it in a television broadcast or to transmit a television program including the work to subscribers to a diffusion service (Sec. 3(5)).

In the case of a cinematograph film, copyright includes the right to make a copy thereof, to cause the film to be seen or heard in public, to broadcast the film or to cause it to be transmitted to subscribers to a diffusion service (Sec. 13(5)).

The maker of a sound recording has the exclusive right of making a record embodying the recording, causing the recording to be heard in public and broadcasting it (Sec. 12(5)).

Copyright in broadcasts made by the British Broadcasting Corporation or the Independent Broadcasting Authority includes the exclusive right to

make (otherwise than for private purposes) a sound recording thereof or, in the case of television broadcasts, to make a cinematograph film of the visual part of the broadcast or a copy of such film, to cause the broadcast to be seen or heard in public by a paying audience or to rebroadcast it (Sec. 14(4)).

The Act contains no provisions on *droit de suite* or moral rights as such, although false attribution of authorship is prohibited (Sec. 43).

5. Limitations on copyright

Sections 6 to 10 set out the cases in which, the circumstances under which and the conditions subject to which certain acts do not constitute infringement. Some of the more important of these are: (i) fair dealing for purposes of private study, research, criticism or review or for reporting current events in a newspaper, magazine or other periodical or in a broadcast or cinematograph film; (ii) the reproduction of an artistic work by way of painting, drawing, engraving or photography or inclusion in a cinematograph film or television broadcast, if the artistic work is permanently situated in a public place (Sec. 9); (iii) the reading or recitation of reasonable extracts in public; (iv) the reproduction of works for purposes of judicial proceedings; (v) the inclusion of passages from published works (not being themselves intended for use in schools) in a collection for use in schools and the reproduction of copyright materials in the course of instruction in educational institutions, within certain prescribed limits (Secs. 6(6) and 41); (vi) the making of a limited number of copies of passages from books, etc., kept in libraries or archives, and publication of old manuscripts in libraries or archives, subject to regulations made by the Department of Trade (Sec. 7); (vii) ephemeral recordings made by broadcasting authorities for their own use (Sec. 6(7)); (viii) the making of records of musical works, if records of the works have previously been made or imported for the purposes of retail sale, subject to payment of royalties and to the other prescribed conditions (Sec. 8); (ix) when the author of a work, including a record or a cinematograph film, authorizes the broadcasting of the work or when a broadcast program is diffused, the person who, by receiving the broadcast, causes the work to be heard or seen, or transmitted to subscribers to a diffusion service, does not infringe the copyright in the work, record or film, as the case may be (Sec. 40); (x) in the case of an artistic work, if a corresponding design is applied industrially and articles with the design are sold or let for hire, then after a period of 15 years from the first sale or hire of the articles, there will be no infringement of copyright in the work by any act which would have infringed a corresponding design (as extended to all associated designs) registered under the Registered Designs Act, 1949 (Sec. 10).

6. Term of protection

Copyright in every literary, dramatic, artistic or musical work subsists for a period of 50 years from the end of the calendar year in which the author died (in the case of photographs, from the end of the year of first publication); if before the death of the author the literary, dramatic or musical work or an adaptation thereof has not been published or performed in public or broadcast, or records thereof have not been offered for sale, copyright subsists for a period of 50 years from the end of the calendar year in which the earliest of any one of these acts took place (Secs. 2(3) and 3(4)).

In the case of anonymous or pseudonymous works the term of protection is 50 years from the end of the calendar year in which the work was first published (Second Schedule).

In the case of a cinematograph film, it subsists for a period of 50 years from the end of the year in which it was registered under the Films Act, 1960, or, if not so registered, the end of the year in which it was published (Sec. 13(3)).

The term of protection of copyright in sound recordings and broadcasts is 50 years from the end of the year when the recording was first published or the broadcast was made (Secs. 12(3) and 14(2)).

Works made or first published by or under the direction or control of the Government enjoy protection for 50 years from the end of the year of publication or, if unpublished, so long as they remain so (Sec. 39).

Copyright subsisting in the typographical arrangement of published editions of literary, dramatic or musical works continues to subsist for 25 years from the end of the calendar year in which the edition was first published (Sec. 15(2)).

7. Transfer of rights

Copyright is transferable by assignment or testamentary disposition or by operation of law, as personal or movable property. The assignment may be in whole or in part. No assignment is valid unless it is in writing, signed by or on behalf of the assignor (Sec. 36). Assignment of rights in respect of works to be created in future is permissible, subject to certain conditions (Sec. 37).

8. Domaine public payant

No provisions.

9. Neighboring rights

Protection of performers is secured by a separate penal legislation, the Performers' Protection Acts 1958 to 1972.

For sound recordings and broadcasts, see above.

10. Agencies set up under law and their function

The Act establishes a Performing Right Tribunal (Sec. 23) the function of which is to determine disputes arising between licensing bodies and persons requiring licenses (Sec. 24(1)). The jurisdiction of the Performing Right Tribunal is limited to disputes arising from licenses in respect of the right to per-

form in public, to broadcast or to diffuse literary, dramatic or musical works or any adaptation thereof, the right to cause a sound recording to be heard in public or broadcast and the right to cause a television broadcast to be seen or heard in public (Sec. 24(2)).

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from December 15, 1957 (substantive provisions); Stockholm Act, 1967, as from January 29, 1970 (administrative provisions). Declaration made under Article VI(1)(ii) of the Appendix to the Paris Act, 1971, with effect as from September 27, 1971.

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

European Agreement concerning Programme Exchanges by means of Television Films, 1958, as from July 1, 1961.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), 1961, with declarations made under Articles 5(3) (concerning Article 5(1)*(b)*), 6(2) and 16(1)*(a)*(ii), (iii) and (iv), as from May 18, 1964.

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, 1971, as from April 18, 1973.

European Agreement on the Protection of Television Broadcasts, 1960 (with the 1965 Protocol and the 1974 Additional Protocol), with reservations under Article 3.1, as from July 1, 1961.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories, 1965, as from December 2, 1967.

12. Bilateral agreements

None.

13. Applicability to foreigners not covered by conventions or agreements

The Government may, by Orders in Council, apply any of the provisions to works first published in a foreign country, or to works the author of which is a citizen of that country or domiciled therein, or to works of bodies incorporated under the laws of such country, or broadcasts made from such country by one or more organizations constituted in or under the laws of that country, if that country makes provision for adequate protection of subject matter protected under the Act (Sec. 32).

The protection can also be extended to works of international organizations subject to prescribed conditions (Sec. 33).

The Government may also, by means of an Order in Council, deny copyright to citizens of countries which do not give adequate protection to British works (Sec. 35).

United States of America

1. Official title and date of current legislation

An Act for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes (Public Law 94-553), of October 19, 1976. Entry into force: January 1, 1978 (with some exceptions).

2. Works eligible for protection

General eligibility criteria

Copyright protection subsists in original works of authorship fixed in any tangible medium of expression from which they can be perceived, reproduced or otherwise communicated (Sec. 102(a)).

The Act provides that all rights equivalent to any of the exclusive rights under a copyright, in works eligible under the law, are governed exclusively by the federal law, thus leaving only to the common law of the several states jurisdiction to regulate: (1) subject matter not within the federal copyright law, and (2) violation of rights with respect to copyrightable works, not equivalent to the exclusive rights of copyright (Sec. 301).

Unpublished works are protected without regard to the nationality or domicile of the author (Sec. 104(a)).

Published works are protected if, (i) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or (ii) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or (iii) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States (Sec. 104(b)).

See also under 13 below.

Published works must bear a notice of copyright, the content, the form and the position of which are specified for various categories of works in Sections 401 to 404. Further, the Register of Copyrights is empowered to prescribe by regulation examples of methods of affixation and positions of the copyright notice on visually perceptible copies. The omission of the notice or errors in name or date do not invalidate the copyright under specified conditions (Secs. 405 and 406). Copies of works thus published must (with possible exemptions made by regulation issued by the Register of Copyrights) be deposited in the Copyright Office; persons not complying with that obligation are liable to a fine (Sec. 407).

Copyright claims may be registered with the Copyright Office; details of the registration procedure are set out in Sections 408 to 410 and in regulations issued under the authority of the Act by the Register.

Registration is prerequisite to infringement suit and to certain remedies for infringement (Secs. 411 and 412).

The Act contains, in Sections 601 to 603, provisions on manufacturing requirements and importation (the manufacturing clause), which are limited to works consisting predominantly of non-dramatic literary material in the English language whose authors are nationals or domiciliaries of the United States. These provisions will be repealed as from July 1, 1982.

Special categories of works

Section 102(a) lists various categories of works of authorship; they include, *inter alia*, motion pictures and other audiovisual works, and sound recordings. The term " pictorial, graphic, and sculptural works " includes works of applied art and photographs, as well as designs of useful articles, but only to the extent that they incorporate pictorial, graphic or sculptural features capable of existing independently of the utilitarian aspects of the article (Sec. 101). Statutory definitions of traditionally protected works have been broadly expanded. The term " literary works " includes not only traditional book materials, but also all non-audiovisual works expressed in words, numbers or similar symbols or indicia, regardless of the nature of materials in which they are embodied, thus bringing computer programs and data bases into the subject matter of the Act principally as " literary works. "

Compilations and derivative works are also protected, but the copyright in such works extends only to the material contributed by their authors and does not imply any exclusive right or otherwise affect the scope, duration, ownership, or subsistence of copyright in the pre-existing material (Sec. 103).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Copyright protection is not available for any work of the United States Government, but the Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise (Sec. 105).

Copyright protection does in no case extend to any idea, procedure, process, method, etc. (Sec. 102(b)).

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author of the work. The authors of a joint work are co-owners of copyright in the work (Sec. 201(a)).

In the case of works made for hire (which include works prepared by employees within the scope of their employment and certain specified works specially ordered or commissioned—Sec. 101), the employer or other person for whom the work was prepared is considered the author, unless the parties have expressly agreed otherwise (Sec. 201(b)).

Copyright in contributions to collective works vests initially in the author of the contribution. In the absence of an express transfer, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of the collective work, or in any revision of that collective work, and any later collective work in the same series (Sec. 201(c)).

4. Rights granted

The owner of copyright in a work has the exclusive right to do and to authorize: reproduction (in copies or phonorecords); preparation of derivative works; distribution of copies or phonorecords to the public by sale, rental, lease or lending; public performance of works other than sound recordings; public display of works other than motion pictures and other audiovisual works (but including the individual images thereof) and sound recordings (Sec. 106). Section 113 contains special provisions concerning the exclusive rights in pictorial, graphic and sculptural works.

The exclusive rights in sound recordings are limited to reproduction, preparation of derivative works and distribution of copies; they do not apply to sound recordings included in educational television and radio programs distributed or transmitted by or through public broadcasting entities (Sec. 114).

5. Limitations on copyright

Uses permitted without payment

Section 107 provides for the factors determining whether the use made of a work is a fair use (including reproduction for purposes such as criticism, comment, news reporting, teaching, scholarship or research) and thus not an infringement of copyright.

Other limitations of exclusive rights, under specified conditions, include reproduction by libraries and archives (Sec. 108), effect of transfer of particular copy or phonorecord (Sec. 109), exemption of certain performances and displays (mainly non-profit use for educational, religious or charitable purposes, including certain programming intended for the visually handicapped—Sec. 110), certain secondary transmissions (Sec. 111(a) and (b)), ephemeral recordings made by transmitting organizations (Sec. 112), certain fixations made by the American Television and Radio Archives for preservation of broadcast news programming (Transitional and Supplementary Provisions, Sec. 113).

Compulsory licenses

The Act contains details provisions on compulsory licenses for secondary transmissions by cable systems (Sec. 111(c) to (f)), for making and distributing phonorecords of non-dramatic musical works (Sec. 115), for public performance of non-dramatic musical works by means of coin-operated phonorecord players (" jukebox ") (Sec. 116) and for use of certain works in connection with non-commercial broadcasting (Sec. 118).

6. Term of protection

Copyright in works created on or after January 1, 1978, subsists from their creation and endures for a term consisting of the life of the author and 50 years after his or her death (Sec. 302(a)).

Section 304 contains detailed provisions on duration of copyright in works created and copyrighted before that date. Works in their first term of copyright on January 1, 1978, are granted a term of 28 years from the date copyright was secured, and are subject to the further requirement of the timely filing of an application for copyright renewal. This second term endures for a further 47 years (Sec. 304(a)).

In the case of joint works, the term is the life of the last surviving author and 50 years thereafter (Sec. 302(b)).

The term of copyright in anonymous or pseudonymous works (except where the identity of the author is, under specified procedures, disclosed) and works made for hire is 75 years from their publication, or 100 years from their creation, whichever expires first (Sec. 302(c)).

All terms, including those applicable to works subject to renewal, run to the end of the calendar year in which they would otherwise expire (Sec. 305).

7. Transfer of rights

The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession. Any of the exclusive rights comprised in a copyright may be transferred and owned separately (Sec. 201(d)).

A transfer of copyright, other than by operation of law, is not valid unless made in writing and signed by the owner of the rights or his duly authorized agent (Sec. 204). Any transfer may be recorded in the Copyright Office; the recordation is a prerequisite to infringement suit (Sec. 205).

Transfer of copyright in works other than works made for hire, or of rights under copyright, are subject to termination by the author or specified successors in interest under certain conditions. Generally, termination may be effected at the end of 35 years from the execution of the assignment (Sec. 203).

8. Domaine public payant

No provisions.

9. Neighboring rights

There are no specific provisions on the protection of performers or broadcasting organizations.

As for the producers of phonograms, see above.

10. Agencies set up under law and their function

In general, all administrative functions and duties under the Act are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress (Sec. 701(a)). The Register provides and keeps records of all deposits, registrations, recordations and other actions taken under the Act (Sec. 705) and is authorized to establish regulations consistent with law (Sec. 702). Detailed provisions on the functioning of the Copyright Office are contained in Sections 701 to 710.

An independent Copyright Royalty Tribunal has been created in the legislative branch. Its purposes are to make determinations concerning the adjustment of various copyright royalty rates payable under the compulsory license schemes (see above) and to distribute royalty fees deposited with the Register of Copyrights (Sec. 801). The Tribunal is composed of 5 commissioners appointed by the President (Sec. 802). Detailed provisions concerning the proceedings of the Tribunal and its administration are contained in Sections 803 to 810.

11. Relevant multilateral conventions

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

Mexico City Copyright Convention, 1902, since 1908.

Buenos Aires Copyright Convention, 1910, since 1911.

Convention for the Protection of Producers of Phonograms Against Unauthorized Reproduction of Their Phonograms, 1971, as from March 10, 1974.

12. Bilateral agreements

Copyright treaty with Hungary (1912) and copyright provisions in treaty with Siam (Thailand) (1937).

13. Applicability to foreigners not covered by conventions or agreements

Unpublished works are protected without regard to the nationality or domicile of the author (Sec. 104(a)).

Protection to published works of foreign origin may be given by Presidential proclamation whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation (Sec. 104(b)(4)). A number of such proclamations were issued under previous copyright legislation with respect to various countries; they continue in force until terminated, suspended or revised by the President (Transitional and Supplementary Provisions, Sec. 104).

Uruguay

1. Official title and date of current legislation

Law concerning Literary and Artistic Copyright, No. 9739, of December 15 to 17, 1937, as amended up to February 25, 1938.

2. Works eligible for protection

General eligibility criteria

The Law recognizes and protects the rights of authors in respect of every literary, scientific or artistic creation (Art. 1).

Protection is available in every case, whatever may be the nature or origin of the work or the nationality of its author (Art. 4).

Entry in the appropriate register is required in order to secure protection. In the case of foreign works, compliance with the requirements for their protection in the country of origin is sufficient (Art. 6).

Special categories of works

The works protected under the Law include musical works fixed on discs, wires, etc., photographs, cinematographic works, television broadcasts, choreographic works whose arrangement and scenic form is fixed in writing and models or creations having an artistic value, provided they are not protected by the legislation relating to industrial property (Art. 5). Translations and adaptations are also protected (Arts. 34 and 35).

The Law contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

The faithful reproduction of laws, official records and public documents, as well as of news items, features and information on newspapers or illustrations of general interest, is lawful (Art. 45).

3. Beneficiaries of protection (copyright owners)

The author of a work is the owner of copyright therein, as well as the adaptor or translator with respect to adaptations or translations (Art. 7). Copyright in writings, features, photographs, etc., of members of the staff of an organization publishing a periodical is deemed to have been assigned to the organization, without prejudice to their right to publish such works in a collection (Art. 24). In the case of a collective compilation, in the absence of an agreement to the contrary, the publisher is deemed to be the owner (Art. 27). The publisher is the owner of copyright in anonymous or pseudonymous works (Art. 30).

In the case of cinematographic works, the producer is, in the absence of agreement to the contrary, the only person entitled to authorize public showing (Art. 29).

In the case of photographs or portraits commissioned by a person, that person owns the right of reproduction (Art. 20).

4. Rights granted

Economic rights

Copyright includes the rights: (i) to reproduce the work by making copies by any means or by making mechanical reproductions of any kind, such as cinematograph films, photographs, discs, etc.; (ii) to translate it; (iii) to perform it by any form of public presentation; and (iv) to disseminate the work by any means, such as radio, television or like processes (Art. 2). Article 44 sets out various acts which constitute unlawful reproduction.

Moral rights

The moral rights of the author include the right to publish an unpublished work, to claim authorship, to supervise publication, performance, etc., and to correct or modify the work after assignment, subject to rights of third parties (Arts. 11 and 12). The author can also withdraw the work, subject to payment of compensation (Art. 13).

Droit de suite

The author has the right to participate (25 percent) in any increase in the value resulting from subsequent sales of the work after alienation thereof (Art. 9).

5. Limitations on copyright

Article 45 sets out the exceptions to the right of reproduction and the conditions under which they apply. They include: publication or transmission by the press or radio of works intended for teaching, oral lessons of teachers or public speeches; quotations for the purpose of commentary, criticism, or polemics; transmission by broadcasting stations or any other means operated by the State for non-commercial and cultural purposes; the public performance for non-profit purposes, by the State bands or orchestras, of short musical works or excerpts.

Parliamentary speeches may be freely published, except for profit (Art. 25).

The State or the municipalities may expropriate copyright under specified conditions (Art. 41).

6. Term of protection

The author of a work enjoys copyright for his life and his heirs or legatees for 40 years thereafter. In the case of posthumous works, the term is 40 years from the date of death; but if the work is not published, performed or exhibited within 10 years after the death of the author, it will pass into the public domain (Art. 14). In the case of works produced in collaboration, the term is counted from the death of the last surving co-author (Art. 15). Academies, cultural institutions or associations for the encouragement of literature, art and the like enjoy protection for 10 years after first publication, but in the

case of other organizations and associations the period is 40 years (Art. 17). Copyright owned by the State, municipalities or other public bodies is perpetual (Art. 40).

The right to defend the integrity of the work passes to the author's heirs and, subsidiarily, to the State. No addition or correction may be made, even with the consent of the author's successors in title, without express indication thereof (Art. 16).

7. Transfer of rights

Copyright, when patrimonial in character, may be transmitted in all the forms envisaged by law. The contract must be in writing and, if is to be effective against third parties, it should be registered (Art. 8). The right of economic exploitation belongs to acquirers for 15 years from the death of the author; thereafter it devolves upon the heirs (Art. 33). If the assignee or acquirer fails to perform or reproduce the work within one year from the request to do so, he loses the right acquired (Art. 32).

The moral rights provided for in Articles 12 and 13 (see under 4 above) are inalienable. The same applies to the *droit de suite* (Art. 9).

8. Domaine public payant

If a work has passed into the public domain, fees have to be paid for the use of such work (Art. 42). The proceeds from fees which accrue to the public domain shall be devoted to the services of art and culture (Art. 62).

9. Neighboring rights

Articles 36 to 38 provide for the protection of the rights of performers, including the right to demand remuneration for a performance which is broadcast or transmitted by radio or television, or recorded on any medium (disc, film, etc.). The performer has also the moral right to object to the dissemination of his performance which is prejudicial to his artistic interests.

As for producers of phonograms and broadcasting organizations, see under 2 above (Art. 5).

10. Agencies set up under law and their function

The Law provides for the setting up of a Copyright Council (Arts. 56 to 61). The Council has to supervise the application of the Law and to perform the functions listed in Article 61, namely, to administer and exercise the custody of literary or artistic properties which have passed into the public domain, to institute legal proceedings on behalf of the State, to act as arbitrator in certain disputes, to give an opinion or ruling when requested, and to perform other duties assigned to it under regulations.

11. Relevant multilateral conventions

Berne Convention: Brussels Act, 1948, as from July 10, 1967.

Montevideo Copyright Convention, 1889, since 1892.

Buenos Aires Copyright Convention, 1910, since 1919.

12. Bilateral agreements

Copyright provisions in treaty with Spain, 1970.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above (Art. 4).

Venezuela

1. Official title and date of current legislation

Law Relating to Copyright, of November 29 and December 12, 1962.

2. Works eligible for protection

General eligibility criteria

All intellectual works of a creative nature, whether literary, scientific or artistic in character, whatever their kind, form of expression, merit or destination, are protected by the mere fact of their creation (Arts. 1 and 5).

Protection is available to an author who is Venezuelan or domiciled within Venezuela, or to works first published in Venezuela, or published there within 30 days of their publication elsewhere (Art. 108). Other works of foreign origin are protected in accordance with international conventions to which Venezuela is a party (Art. 109).

Works protected under the Law must be entered in the Public Register (Art. 90). In the absence of proof to the contrary, the Register constitutes *prima facie* evidence of the work and of the fact of its divulgation or publication (Art. 91). Deposit is also obligatory, but failure to deposit does not prejudice the acquisition and exercise of the rights established by the Law (Arts. 93 and 94).

Special categories of works

The main categories of protected works are listed in Article 2. The list includes cinematographic works, works created for broadcasting (Art. 17), works of applied art other than mere industrial models and drawings, choreographic works and pantomimes the acting form of which is fixed in writing or otherwise.

Translations, adaptations and anthologies or compilations which constitute personal creations are also protected (Art. 3).

Editions of works of other persons or of texts representing the result of scientific labor are protected by a right related to copyright (Art. 36). Similarly, the person who divulges a work which has not been

made available to the public within the term of protection has the exclusive right to exploit the work (Art. 37). Photographs and reproductions or prints obtained by a process similar to photography are also protected in like manner (Art. 38).

The Law contains no specific provisions on the protection of type faces, typographical arrangement or works of folklore.

Works not protected

Texts of laws, decrees, regulations, public treaties, judicial decisions and other official texts are not protected (Art. 4). However, collections of laws or public treaties may be published only with the permission obtained from the competent Ministry (Art. 115).

3. Beneficiaries of protection (copyright owners)

The author of an intellectual work, by the sole fact of its creation, owns both moral and economic rights (Art. 5). A person whose name is indicated as author in the work or announced in any performance is presumed to be the author (Art. 7). In the case of an anonymous or pseudonymous work, the publisher may exercise the copyright (Art. 8). Copyright in works produced in collaboration belongs to the co-authors in common, while in the case of composite works it belongs to the person who produced them, subject to the rights of authors of pre-existing works (Arts. 10 and 11).

In the case of cinematographic works, the right belongs to the person who created the work; the authors of the script, of the adaptation, of the dialogue and of the music specially composed for the work, as well as the director, are, in the absence of proof to the contrary, presumed to be co-authors (Art. 12).

4. Rights granted

Economic rights

The right of exploitation of an intellectual work (Art. 23) includes the right of performance and the right of reproduction (Art. 39). Performance includes public recitation, musical or dramatic performance, public presentation or exhibition, diffusion by any method of words, sounds or images, public projection and transmission of a broadcast by loudspeaker or television screen located in a public place (Art. 40). Reproduction consists in the material fixation of the work by all methods which permit indirect communication to the public, including mechanical or cinematographic recording (Art. 41).

Moral rights

The moral rights of the author include the right to decide as to divulgation of the work (Art. 18), to claim authorship (Art. 20), and to object to modifications prejudicial to the dignity or reputation of the author (Art. 21).

Droit de suite

No provisions.

5. Limitations on copyright

The Law provides for a number of limitations to the exercise of the rights, subject to certain terms and conditions set out in Articles 43 to 49. They include: (i) performances given in a closed circle of persons where no charge is made for admission and public non-profit performances in the general interest (Art. 43); (ii) reproduction of small fragments for personal use; (iii) the copying of works of art for study, or the reproduction in a different form of works of art permanently located in public places; (iv) reproduction of portraits by competent authorities for the purposes of justice and public security (Art. 44); (v) utilization, to the extent permitted by Article 45, by the author of a musical work of small portions of a literary text or poem, subject to payment of an equitable share of the proceeds derived therefrom to the owner of the right; (vi) inclusion of published works in an original scientific work with a view to clarifying its content (Art. 46); (vii) diffusion, by the press or broadcasting, of public speeches by way of information, or of topical items on economic, social, artistic, political or religious subjects, except when reproduction has been expressly reserved (Art. 47); (viii) reproduction of news items and factual information published by press or radio (Art. 48); and (ix) the broadcasting or recording of brief portions of works for the purpose of reporting current events (Art. 49).

6. Term of protection

Copyright subsists for the life of the author and for 50 years after the end of the year in which the author or the last of the surviving co-authors of a work of collaboration dies (Arts. 25 and 26).

In the case of cinematograph films, the period of 50 years is calculated from the end of the year of first publication or, failing this, of its completion (Art. 26); in the case of anonymous or pseudonymous works, it is 50 years from the year of first publication (Art. 27).

The protection of editions (see under 2 above) expires 15 years after their first publication (Art. 36). The rights of persons who divulge works not made available to the public (see also under 2 above) expire 10 years after the end of the year of divulgation (Art. 37).

Photographs are protected for 15 years after the year of their divulgation or, failing this, of their production (Art. 38).

7. Transfer of rights

The rights of exploitation are transferable gratuitously or for compensation. The transfer must be in writing and is restricted to the methods of exploitation specifically mentioned. The transfer of rights in respect of future works is effective for a maximum period of 5 years (Arts. 50 to 53). The Law contains detailed provisions on the principal contracts of exploitation (Arts. 65 to 89). If the author's rights are transferred for compensation, the Law provides that

a proportionate share of the receipts obtained by the transferee in respect of exploitation of the work must be reserved for the benefit of the author, subject to the terms and conditions mentioned in Articles 55 and 56. A transferee may, in the absence of agreement to the contrary, make a further transfer only with the consent of the original transferor (Art. 57). The author may authorize exploitation of his work by any person by means of public declaration (Art. 60). Where the rights of exploitation of a work made in the discharge of the author's public duties, or in the fulfillment of a contract of employment, are transferred to a public authority or employer, such transfer implies the authorization to divulge the work (Art. 59).

After the death of the author the provisions of the Civil Code as to transmission *mortis causa* are applicable (Art. 29), without prejudice to the special provisions on the matrimonial régime (Art. 34).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Law contains no specific provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

The Law provides for representative associations of authors and regulates their functioning (Arts. 61 to 64).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from September 30, 1966.

Caracas Copyright Agreement, 1911, since 1914.

12. Bilateral agreements

Copyright provisions in treaty with Israel, 1966.

13. Applicability to foreigners not covered by conventions or agreements

In the absence of an applicable convention, works of foreign authors enjoy protection, provided that the State to which the author belongs grants equivalent protection to Venezuelan authors. The existence of reciprocity is established by the court or by means of an attestation of two lawyers practising in the country concerned (Art. 109).

Yugoslavia

1. Official title and date of current legislation

Copyright Law, of March 30, 1978.

2. Works eligible for protection

General eligibility criteria

Unless otherwise provided in the Law, an intellectual creation in the literary, scientific or artistic field or in any other field of intellectual creation, whatever may be the kind, method or form of expression thereof, is considered an intellectual work (Art. 3).

The intellectual works of Yugoslav nationals, whether published in Yugoslavia or abroad or unpublished, enjoy protection. Works of foreign nationals or stateless persons first published in Yugoslavia enjoy the same protection (Art. 2).

No formalities are required.

Special categories of works

The Law contains special provisions concerning cinematographic works (Arts. 14 to 19).

Photographic works and works produced by a process analogous to photography, works of applied art and industrial designing, as well as works derived from folklore, are protected according to the general rules. Choreographic works and entertainments in dumb show are considered intellectual works if their acting form is fixed in writing or otherwise (Art. 3).

The Republics or Autonomous Provinces may provide that exploitation of creations of folk literature and art by means of performance is subject to payment of remuneration. Exploitation in any other form is free (Arts. 6 and 51).

Derivative works (translations, adaptations, musical arrangements and other transformations, as well as collections) are protected as original works (Arts. 4 and 5).

The Law contains no specific provisions on type faces or typographical arrangement.

Works not protected

Original official texts of a legislative, administrative or judicial nature are not protected (Art. 5).

3. Beneficiaries of protection (copyright owners)

The original owner of copyright is the author. In the absence of proof to the contrary, the person whose name or pseudonym appears on the work is regarded as the author (Arts. 1 and 8).

In addition to the author, the owner of copyright may also be the person to whom any or all legal prerogatives of authors which may be transferred belong, by operation of law, will or contract (Art. 12).

Where a work created jointly by two or more persons constitutes an indivisible entity, copyright in

such work belongs indivisibly to all co-authors (Art. 10).

Where one or more persons have organized work for the purpose of creating an intellectual work in which a number of co-authors not bound by an employment contract participate, the owner of copyright in the work as a whole, unless otherwise agreed, is the person or persons having commissioned the work (Art. 26).

Legal copyright relationships between working or other organizations or public authorities and authors of works created within such organizations or authorities are governed by general acts of the organization or authority. If the author is employed by a person independently exercising professional or other activities, legal relationships are governed by the contract concluded between such person and the author (Art. 20). The organization, authority or employer has the exclusive right to use the work thus created, within the framework of normal activity and during a five-year period, without requesting the authorization of the author, who is entitled to special remuneration for such use. The author retains the other authors' rights in the work (Art. 21).

The author of the scenario, the director, the composer (if music is an essential element), the director of photography and, in the case of animated cartoon films, the principal cartoonist are considered authors of the completed cinematographic work (Art. 14). The relationship between the maker and the authors of the cinematographic work, and the relationship between the authors themselves, is governed by written contract (Art. 16).

4. Rights granted

Copyright includes the authors' economic and moral rights (Art. 26).

Economic rights

The economic rights are the rights of the author to the exploitation of his work in any form, including publication, transformation, reproduction, multiplication, arrangement, performance, transmission and translation (Arts. 27 and 31). The right of public performance includes communication to the public of the performance by any means (Art. 32). The right of broadcasting includes communication to the public by any other means of wireless communication, and any communication of the broadcast to the public, whether by wire or not, by an organization other than that which originally broadcast the work (Art. 33). The right of recording includes public performance of the works recorded (Art. 34). The right of cinematographic adaptation or reproduction includes distribution and public performance of works thus adapted or reproduced (Art. 39).

The authors of a cinematographic work have the exclusive right to film their intellectual creations (right of filming), as well as the rights of reproduction, distribution, performance, broadcasting, translation (dubbing) and transformation in respect of the cinematographic work (Art. 15).

Moral rights

The moral rights are the right of the author to be recognized and indicated as such, the right to object to any distortion, mutilation or other modification of the work, and the right to object to any use which would be prejudicial to his honor or reputation (Art. 28). The author has also the right to withdraw his work from circulation under certain conditions (compensation to the user or owner, etc.); this right does not belong to other copyright owners (Art. 30).

Droit de suite

The owner of an original work of figurative art, or of an original manuscript of a literary, scientific or musical work, is required to inform the author, at his request, of the identity of any new owner or user. If such original work or manuscript is sold, the seller must enable the author to participate in the selling price; the percentage of the participation is fixed by agreement between the respective authors' organization, the Economic Chamber, the Federation of Trade Unions and the Socialist Alliance of Working People (Art. 40).

5. Limitations on copyright

Uses permitted without payment

It is permissible, under specified conditions, to do the following acts without the authorization of the author and without payment of remuneration: to perform works for the purposes or in the form of teaching, to publish reviews of published works, to exhibit publicly artistic works, to reproduce published works for the purpose of improving one's personal knowledge, to reproduce works of painting by means of sculpture and vice versa, to quote excerpts from published works and to make public various speeches for the purpose of reporting current events (Arts. 49 and 50).

Broadcasting organizations may make ephemeral recordings under specified conditions (Art. 35).

Uses permitted against payment (legal license)

It is permissible to do the following acts without the authorization of the author but against payment of remuneration: to publish and reproduce excerpts from works for teaching purposes, to reprint in periodical publications articles dealing with current matters of general public interest (unless expressly forbidden by the author), to reproduce in newspapers and periodical publications single photographs of current events, etc., to reproduce, by means other than a mold, artistic works exhibited in streets and squares and to reproduce, by means of photography, works of sculpture and painting and works of architecture in newspapers and reviews (unless expressly forbidden by the author) (Art. 48).

Broadcasting organizations may broadcast, without the authorization of the authors, works recorded by instruments for mechanical reproduction (phonograms, tape, videotape and similar recordings) (Art. 36).

Where a work published in a foreign language and protected under the Berne Convention has not been translated, by or with the authorization of its author, into one of the languages of the Yugoslav peoples or nationalities within a period of 10 years from its publication, the work may be translated into the said languages without the authorization of the author, but against payment of remuneration. This provision is applicable also in the case of translation from one language of the Yugoslav peoples or nationalities into another (Art. 43).

Compulsory licenses

Licenses to translate works protected under the Universal Copyright Convention may be obtained, under the usual conditions, after the expiration of a period of 7 years from their publication (Arts. 44 to 47).

In all the above cases, the author retains all the other rights vested in him (moral rights).

6. Term of protection

The general term of protection for the economic rights is the author's life plus 50 years and, where the owner of such rights is a legal entity, 50 years after publication (Art. 82). Authors' rights in a cinematographic work and a work of joint authorship expire 50 years after the death of the last surviving author or co-author (Arts. 83 and 86). Rights in photographic works and works of applied art expire 25 years after publication; in the case of a cinematographic work having the character of a photographic work, they expire 25 years after its completion (Arts. 83 and 84).

The terms indicated begin on January 1st of the year immediately following the death of the author or the publication of the work, as the case may be (Art. 88).

The authors' moral rights subsist after the expiration of their economic rights (Art. 87).

7. Transfer of rights

The author's economic rights may be transferred, wholly or in part, for the entire term of right or for a specific period of time. The person to whom the right has been transferred may not, unless otherwise agreed, transfer that right to a third party without the consent of the owner of the right (Art. 52). The Law contains detailed provisions on authors' contracts, including specific provisions on the publishing contract, the performance contract and the contract for a cinematographic work (Arts. 55 to 79).

The provisions of the Law on inheritance apply to the inheritance of authors' rights (Art. 80). After the expiration of the author's economic rights, his moral rights are safeguarded by the organizations of authors and the academies of arts and sciences (Art. 81).

The *droit de suite* cannot be renounced or transferred by the author, but it is inheritable (Art. 40).

8. Domaine public payant

After the termination of the authors' economic rights, a special contribution is payable for the use of the work if so provided by the Republics or Autonomous Provinces (Art. 89).

See also under 2 above regarding creations of folk literature and art.

9. Neighboring rights

The Law contains no provisions on the protection of the rights of performers, producers of phonograms or broadcasting organizations.

10. Agencies set up under law and their function

Authors may administer their rights themselves or through a representative (Art. 90). The representatives may be organizations of authors and all bodies and organizations registered for that purpose (Art. 91).

11. Relevant multilateral conventions

Berne Convention: Paris Act, 1971, as from September 2, 1975, with a reservation concerning the right of translation (the so-called ten-year régime; see also under 5 above).

Universal Copyright Convention, as revised in 1971, as from July 10, 1974.

12. Bilateral agreements

Agreement with Italy concerning the extension of the term of copyright protection, 1950.

13. Applicability to foreigners not covered by conventions or agreements

Works of foreign nationals not first published in Yugoslavia enjoy protection on the basis of *de facto* reciprocity (Art. 2).

Zambia

1. Official title and date of current legislation

The Copyright Act 1965. Entry into force: March 1, 1965.

2. Works eligible for protection

General eligibility criteria

A literary, musical or artistic work is not eligible for copyright unless sufficient effort has been expended on making the work to give it an original character, and the work has been written down, recorded or otherwise reduced to material form (Sec. 3.(2)).

Copyright is conferred on every work eligible for copyright if the author is a citizen of, or is domiciled or resident in, Zambia, or, if the owner is a body corporate, it is incorporated under the laws in Zambia or, in the case of a literary, artistic, musi-

cal or cinematographic work, it is first published in Zambia or, in the case of a sound recording, it is made in Zambia. The criterion of place of publication does not apply to cases covered by the criterion of nationality or domicile (Secs. 4(1) and 5(1)).

No formalities are required.

Special categories of works

Apart from literary, musical and artistic works, the Act protects also cinematograph films, sound recordings and broadcasts which include diffusion over wires (Sec. 3).

The term " works " includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which present an original character (Sec. 2(1)). Artistic works include photographs and works of artistic craftsmanship (Sec. 2(1)); if, however, an artistic work is intended by the author to be used as a model or pattern to be multiplied by an industrial process, it is not eligible for copyright (Sec. 3(3)).

The Act contains no specific provisions on type faces, typographical arrangement or works of folklore.

Works not protected

Written law, law reports or judicial decisions are not included in the definition of literary works (Sec. 2(1)).

3. Beneficiaries of protection (copyright owners)

Copyright vests initially in the author. Where, however, a work is made in the course of the author's employment, or is commissioned by a person who is not the author's employer, the copyright is deemed to be transferred to the employer or the person who commissioned the work, as the case may be, subject to any agreement between the parties excluding or limiting such a transfer (Sec. 11). In the case of works made by or under the direction or control of the Government or international bodies, copyright vests in them (Secs. 6 and 11(2)).

In the case of a cinematograph film or sound recording, the term " author " means the person by whom the arrangements for the making of the film or recording were undertaken. Similarly, in the case of a broadcast transmitted from within any country, " author " means the person by whom the arrangements for the making of the transmission were undertaken (Sec. 2(1)).

4. Rights granted

Copyright in a literary, musical or artistic work, or in a cinematograph film, is the exclusive right to control the reproduction in any material form, the communication to the public and the broadcasting of the whole or a substantial part of the work (Sec. 7(1)). Copyright in a sound recording is the exclusive right to control the direct or indirect reproduction of the whole or a substantial part of the recording (Sec. 9). Copyright in a broadcast is the exclusive right to control the recording and the rebroadcasting of the whole or a substantial part of the broadcast and, in the case of a television broadcast, also its communication to the public, in places where an admission fee is charged, and the taking of still photographs from it (Sec. 10). In all these cases, the act may be in relation to the work in its original form or a form recognizably derived from it. In the absence of any agreement to the contrary, an authorization to use the work in a cinematograph film includes one to broadcast the film (except in the case of a musical work, where the owner of the right is entitled to fair compensation) (Sec. 8).

The Act contains no provisions on moral rights or *droit de suite.*

5. Limitations on copyright

Exceptions from the copyright control, listed in the proviso to Section 7, include fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, educational broadcasting and other educational use, various kinds of non-commercial use in the public interest, use by way of parody, pastiche or caricature, ephemeral recording under specified conditions, use in judicial proceedings, use of a work in the public interest under the direction or control of the Government for communication to the public, if no revenue is derived therefrom, reproduction or the inclusion in a film or broadcast of an artistic work situated in a public place, etc. These exceptions, provided for in respect of literary, musical or artistic works and cinematograph films, are in some cases also applicable to sound recordings or broadcasts (Secs. 9 and 10).

The Act also provides for a compulsory license for the making or importing of sound recordings of literary or artistic works (Sec. 7(1)*(g)*) and for the broadcasting of works lawfully made accessible to the public with which no licensing body is concerned (Sec. 7(1)*(l)*).

6. Term of protection

The term of copyright for literary, musical and artistic works (other than photographs) is 25 years after the death of the author, or of the last surviving author in the case of joint authorship (in the case of anonymous or pseudonymous works or works of Government or international organizations, this period is calculated from the date of publication). The same term is counted for cinematograph films and photographs after their being first made lawfully accessible to the public. For sound recordings the term of protection is 20 years after their making, and for broadcasts after they took place. All terms are calculated as from the end of the year in which each of the events took place (Secs. 4, 5(2) and 6(2) and (3)).

7. Transfer of rights

Copyright is transmissible by assignment, by testamentary disposition or by operation of law, as movable property. An assignment or testamentary dispo-

sition may be limited to some only of the exclusive rights, or to a part of the period of the copyright, or to a specified country or other geographical area. No assignment or exclusive license is effective unless it is in writing. An assignment or license granted by one copyright owner has effect as if granted by his co-owners (Sec. 12).

8. Domaine public payant

No provisions.

9. Neighboring rights

The Act contains no provisions on the protection of the rights of performers as such.

Producers of phonograms and broadcasting organizations are protected as owners of the relevant rights (see above).

10. Agencies set up under law and their function

The Act provides for the appointment of a competent authority. If the competent authority is satisfied that a licensing body is unreasonably refusing to grant licenses or is imposing unreasonable terms and conditions, it may direct that a license shall be deemed to have been granted at the time the act in relation to a work with which the licensing body is concerned is done, provided the prescribed fees are paid (Sec. 14).

11. Relevant multilateral conventions

Universal Copyright Convention, 1952, as from June 1, 1965.

12. Bilateral agreements

No information available.

13. Applicability to foreigners not covered by conventions or agreements

See under 2 above.

National Legislation

ICELAND

I

Regulations on the Establishment of a Fund according to Article 47 of the Law on Copyright No. 73, of May 29, 1972

(No. 228 of 1973) *

Article 1. Payments for the use of commercial recordings, according to the first paragraph of Article 47 of the Law on Copyright of May 29, 1972,[1] shall be paid into a Fund that operates in two departments, one for performers, and the other for producers of recordings.

Article 2. Provisions for the Fund's government, management and the appropriation of money from its departments shall be laid down in an agreement between the association of performers, on the one hand, and the producers of recordings, on the other, and must be approved by the Ministry of Culture and Education.

Article 3. These regulations take effect immediately.

* The English translation has been communicated to WIPO by courtesy of the Ministry of Culture and Education of the Republic of Iceland.

[1] See *Copyright*, 1973, p. 247.

II

Law on the Authors' Salary Fund

(No. 29 of 1975) *

Article 1. An Authors' Salary Fund shall be established. The capital assets of the Fund shall amount to 21.7 million Icelandic krónur, and shall be appropriated out of the funds of the State.

Article 2. An initial appropriation towards the Fund shall be made for the year of 1976. Budget provisions shall be made each year for appropriations amounting to no less than the figure in Article 1.

The amount shall be revised annually based on the starting salary of secondary grammar school teachers.

Article 3. Icelandic writers and authors of scientific works may receive payments from the Fund. Payments for translations into Icelandic are also permitted.

Article 4. The Minister of Culture and Education sets regulations on the procedure of this Law upon consultation with the authors' associations, in which provisions are included for the Governing Board of the Fund, the management of the Fund and appropriations from it.

Article 5. This Law takes effect forthwith.

* The English translation has been communicated to WIPO by courtesy of the Ministry of Culture and Education of the Republic of Iceland.

III

Regulations for the Authors' Salary Fund

(No. 232 of 1976) *

Article 1. The Governing Body of the Authors' Salary Fund shall consist of three representatives independent of the Icelandic Writers Association, put forward by the Association's Executive Committee and appointed by the Minister for Culture and Education.

The Governing Body delegates its own duties.

Representatives may not be appointed for two terms in succession nor shall they be appointed for more than two terms.

The Governing Body administers the distribution of grants from the Authors' Salary Fund, and must have completed this before March 1st each year.

The Minister of Culture and Education sets the fees of the members of the Governing Body.

Article 2. The annual income of the Fund shall go towards awarding working salaries whose amount is based on the 26th class of the wage scale of public employees (the beginning stage).

Working salaries are awarded upon applications for a period of no less than two, and no more than nine months in each case.

Authors may apply for a working salary annually.

The Governing Body advertises for applications in the usual way. The application shall include information on works already completed by the author or which are under completion. The Board of Governors determines what information must accompany the application for a working salary, and announces this in the advertisement for applications.

An author who applies for and receives working salary for three months or more binds himself to the condition that he does not take up paid employment during the period he has been awarded the working salary. Such an obligation is not attached to the two-month wage salary award, and these are in any case awarded only for works that were published the year before the award.

The Board of Governors may award a working salary for a shorter period than applied for, unless the author specifies this in his application.

Applications by the author or his representative are equally valid.

Working salary is paid every month by the State Treasurer.

Article 3. These regulations are made in accordance with Law No. 29 of 1975, on the Authors' Salary Fund, and come into force immediately.

These regulations are in force for a period of three years.

Provisional amendment

The awards for 1976 shall be completed before August 15th of that year.

* The English translation has been communicated to WIPO by courtesy of the Ministry of Culture and Education of the Republic of Iceland.

UNITED KINGDOM

The Copyright (International Conventions) (Amendment) Order 1978

(No. 1060, of July 25, 1978, coming into force on August 23, 1978)

1. — (1) This Order may be cited as the Copyright (International Conventions) (Amendment) Order 1978, and shall come into operation on 23rd August 1978.

(2) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. — The Copyright (International Conventions) Order 1972 [1], as amended [2], shall be further amended as follows:

(a) in Schedule 1 (which names the countries of the Berne Copyright Union) there shall be included a reference to Costa Rica indicated with an asterisk denoting that it is also a party to the Universal Copyright Convention;

(b) in Schedule 2 (which names the countries party to the Universal Copyright Convention but not members of the Berne Union) the name of Costa Rica, and the date indicated in relation to that country, shall be omitted;

(c) in Schedule 4 (countries whose broadcasting organisations have copyright protection in relation to their sound broadcasts) there shall be included a reference to Norway and a related reference to 23rd August 1978 in the list of dates in that Schedule.

[1] See *Copyright*, 1972, p. 180.

[2] *Ibid.*, 1973, pp. 78, 109, 110, 218 and 250, 1974, p. 235, 1975, p. 177, 1976, pp. 56, 96 and 128, 1977, pp. 47, 69, 130, 253, 273 and 336.

3. — (1) This Order except for Article 2*(c)* shall extend to all the countries mentioned in the Schedule hereto.

(2) Article 2*(c)* shall extend to Gibraltar and Bermuda.

SCHEDULE

Countries to which this Order extends

Bermuda	Gibraltar
Belize	Hong Kong
British Virgin Islands	Isle of Man
Cayman Islands	Montserrat
Falkland Islands and Dependencies	St. Helena and its Dependencies

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order further amends the Copyright (International Conventions) Order 1972. It takes account of: —

(a) the accession of Costa Rica to the Berne Copyright Convention; and

(b) the accession of Norway to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.

The Order extends, so far as is appropriate, to dependent countries of the Commonwealth to which the 1972 Order extends.

Correspondence

Letter from Hungary

Mihály FICSOR *

The last " Letter from Hungary " was published in the March 1974 issue of *Copyright*. It was by István Timár, former Director-General of the Hungarian Bureau for the Protection of Authors' Rights, who has since retired. Before him, another outstanding copyright lawyer, Robert Palágyi, had written a long series of " Letters." This is my first " Letter " on the most important copyright developments in Hungary over the last four years, and I should like to take this opportunity to pay a tribute to the valuable work of both my predecessors.

I. International Matters

1. On February 24, 1975, the Hungarian Government deposited with the Secretary-General of the United Nations its instrument of accession to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms. The Director General of the World Intellectual Property Organization informed the Governments of the States referred to in Article 9(1) of the Convention on February 28, 1975. Pursuant to the provisions of Article 11(2), the Convention entered into force with respect to Hungary on May 28, 1975.

Just for the sake of completeness, I may mention that Hungary is a party to both the Berne Convention and the Universal Copyright Convention, but has not acceded to the Rome Convention or the Satellites Convention as yet. As far as the latter conventions are concerned, the competent Hungarian authorities have dealt with the question of accession recently, but for the time being they have found that such steps would be premature.

2. The first agreement between Hungary and the Soviet Union on the reciprocal protection of copyright was concluded on November 17, 1967. That agreement was of great importance in the development of international copyright law. It was the very first international agreement concluded by the Soviet Union in this field and was recognized all over the world as the Soviet Government's first step toward wide-scale international copyright cooperation.

The two Governments undertook, in the agreement, to give each other's authors the same protection as their own authors have under domestic laws. However, two exceptions were made to this principle. The first exception covered the term of protection, the second concerned authors' pecuniary rights. The term of protection was laid down as 15 years *post mortem auctoris*, which corresponded to the Soviet laws in force at that time. The question of remuneration was also settled according to the principle of material reciprocity. Article 6 of the agreement contained the following wording: " There shall be no obligation to pay copyright royalties for the utilization in the territory of one of the Contracting Parties of a work protected under this Convention in cases in which citizens of the said Contracting Party are not entitled to royalties for the utilization in the territory of the other Contracting Party of their works."

The agreement provided also for the elimination of double taxation of copyright royalties. Royalties could be taxed only in the country in which they were paid to the beneficiaries.

A novel feature of the agreement was that it did not only cover questions of copyright protection in its narrower sense. The contracting parties also undertook to mutually promote the publication, performance and dissemination of the works of each other's authors.

The agreement had been concluded for a three-year period, but later its validity was extended for seven more years, that is, until December 31, 1977.

The first Hungarian-Soviet copyright agreement can be considered to be in the nature of an experimental model for Soviet copyright legislation and practice. This is a possible explanation for the fact that its conclusion was not followed by further copyright agreements for a relatively long period. However, after four years, a whole series of bilateral copyright agreements was signed by the Soviet Government (in 1971 with Bulgaria, in 1973 with the German Democratic Republic, in 1974 with Poland and in 1975 with Czechoslovakia).

Although those agreements contain some differing provisions of minor importance, they have adopted the solutions of the Hungarian-Soviet agreement in substance and in their most important features.

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However, in the meantime, a more important new development took place. The Soviet Union acceded to the Universal Copyright Convention (to its 1952 Geneva text) with effect from May 27, 1973.

How did the Soviet Union's accession to the Universal Copyright Convention affect the validity of the Hungarian-Soviet bilateral agreement (taking into account that Hungary has been a member of the Convention, too, since 1971)?

Article 9 of the agreement reads as follows: "This Convention shall not affect the obligations of the Contracting Parties under other international agreements." This provision was in conformity with Article XIX of the Universal Copyright Convention, which regulates in detail possible differences between the Convention and other international instruments:

> This Convention shall not abrogate multilateral or bilateral conventions or arrangements in effect between two or more Contracting States. In the event of any difference between the provisions of such existing conventions or arrangements and the provisions of this Convention, the provisions of this Convention shall prevail. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date on which this Convention comes into force in such State shall not be affected...

Having taken into account the quoted provision, it seemed obvious that the validity of the Hungarian-Soviet agreement had not ended with the two countries' adherence to the Universal Copyright Convention. Nor had the bilateral agreement become unnecessary from the point of view of substance since beyond copyright protection, in its narrower sense, it regulated several other questions — for example, in connection with the promotion of protected works and the transfer of royalties — which were not dealt with by the Universal Copyright Convention. However, with respect to Article XIX of the Convention, we had to examine whether there were any provisions in the bilateral agreements which required modifying.

The modifications which seemed most urgent were made by an exchange of diplomatic notes between the two Governments, effective on May 27, 1973. At that time, the agreement was modified in two aspects only: the term of protection was extended from 15 to 25 years *post mortem auctoris* and the protection of each country's citizens was made independent of their place of residence, The examination of other questions concerning the relationship between the Universal Copyright Convention and the bilateral agreement was postponed to a time when the agreement would be getting nearer to its termination and the question of a possible new agreement would be on the agenda.

The new Hungarian-Soviet agreement was signed by the representatives of the two Governments on November 16, 1977, and entered into force on January 1, 1978.[1]

[1] *Copyright*, 1978, pp. 158-159.

The most important novelty in the new agreement concerns the question of reciprocity.

As we saw above, the former agreement conflicted with the Universal Copyright Convention because it applied the principle of material reciprocity to pecuniary rights. The explanation was the following: at the time of the conclusion of the first bilateral agreement there were such great differences between the two countries' copyright systems that the application of the principle of national treatment would have resulted in a substantial disproportion in the amounts of mutually transferred royalties.

The new agreement applies the principle of national treatment in conformity with the Universal Copyright Convention. (Such a principle was also formulated in the earlier bilateral agreement — in its Article 2 — and that provision remained practically unchanged. However, Article 6 made a very substantial exemption from that principle in respect of pecuniary rights. The new agreement has completed the application of the principle of national treatment and thus brought it into harmony with the Universal Copyright Convention by setting aside the latter provision.)

However, the new agreement has maintained material reciprocity where it is also allowed by the Universal Copyright Convention, namely, in the case of terms of protection (by way of comparison of terms), but it has made the relevant provision more precise.

The earlier agreement fixed a uniform 25-year term of protection for every author and every work. The new Article 3 has formulated the principle of comparison of terms itself instead of determining any special term.

Some more changes in the new agreement deserve to be mentioned:

The new Article 2 defines the scope of the agreement in a more precise way so that it covers a wider range of authors and works. The new provision ensures the protection of the other country's authors without limitation and it provides for the protection of successors in title, too. At the same time it extends protection also to the copyright of authors and their successors in title of third countries in the works first made public on the territory of the other contracting party.

Article 5 provides more unambiguously for the elimination of double taxation of copyright royalties. The former provision, under which it was the place of the payment of royalties to the beneficiaries which determined the country where taxes could be levied, entailed some elements of chance and uncertainty. The new agreement has determined the permanent residence of the beneficiary as the place of taxation.

Article 6 has formulated a newly-established objective for cooperation among socialist countries: the harmonization of the general conditions of authors' licensing agreements.

II. New Domestic Legislation

1 *(a)* The Hungarian National Assembly has amended Act IV of 1959 on the Civil Code of the Hungarian People's Republic by Act IV of 1977. The new Act entered into force on March 1, 1978. The amendment is also of great importance from the viewpoint of copyright legislation.

This effect of the modification of the Civil Code is a direct consequence of the fact that in the Hungarian legal system the copyright law belongs to civil law according to the broader concept of the latter branch of law.

The Civil Code provides for the protection of intellectual works under the title " Civil law protection of persons " (Title IV). The place assigned to the provisions on the protection of intellectual creations is in conformity with the standpoint of socialist legal theory as to the nature of these works and the rights of their creators. According to this theory, the social relations of intellectual creations are essentially of a non-pecuniary nature. The essence of an intellectual work is the original thought, the individual idea expressed in it. It is the highly personal nature of creation that is the reason for the State affording exclusive rights to authors, inventors, etc., in their works. Thus the exclusive nature of authors' rights is not based on any property theory, but it has its roots in the overall legal protection of personality.

Until the recent amendment, the Civil Code provided both for personality rights in the narrower sense and the rights in intellectual works under Title IV, in one and the same chapter (Chapter VII). As far as the latter rights were concerned, the Code did not contain anything else but a referring provision worded as follows: " Special provisions concerning the protection of personal rights related to creative activity are defined by the laws on copyright, patents and innovations, as well as by those on the protection of trademarks and designs " (Article 84 of the Civil Code — before the amendment). The legislator expressed in that provision his view that the regulation of the protection of intellectual works was a task of the Civil Code and it was only because of the extent of the necessary regulations in this field that he did not incorporate them into the Code.

This special relationship of copyright and civil law has also been stated by Act III of 1969 on copyright. Article 3 of the Act reads as follows: " The provisions of the Civil Code shall apply to questions not dealt with in this Act."

The relationship between civil law and the laws on the protection of intellectual works has not been changed by the recent amendment. However, the provisions of the Civil Code relating to those subjects have been modified in some aspects.

The new Act has placed the provisions on general personality rights in a separate section and provided for the rights in intellectual works in another section. According to the Government's official grounds attached to the Act, the legislator's intention in establishing a separate regulation was to emphasize the significance of those rights and at the same time to underline their special features as compared with general personality rights.

The new separate section of the Code (in Chapter VII) begins with a new general provision announcing the protection of every kind of creation: " Intellectual creation shall be protected by law " (Article 86(1)).

The referring provision (Article 86(2)) of the amended Code covers a wider range of subjects governed by special laws than the previous one and also refers to certain neighboring rights: " The protection of the specific types of creative and certain related activities — in addition to the provisions of this Act — shall be provided for by the laws on copyright, industrial property (patents, trademarks, appellations of origin, indication of source, industrial designs), innovations and by those on the protection of the producers of phonograms. "

The previous text of the Civil Code also referred to special laws and protection systems provided for by them. One of the most significant novelties in the modified Code is that it also contains some provisions on those intellectual works which do not enjoy protection under special laws.

The new Article 86(3) reads as follows: " The law shall also protect those intellectual works not regulated by special laws, provided that society can utilize these works in a wider field and they have not yet become common property."

The official grounds of the new Act do not give any clarification as to the sort of intellectual works the legislator had in mind when formulating that paragraph. However, some unofficial commentaries and explanations give the opinion that, for example, computer programs can obtain protection under this provision.

(Article 86(4) seems more unambiguous: " Persons shall enjoy protection regarding their economic, technical and organizing knowledge and experience of pecuniary value. The beginning and period of that protection shall be defined by special laws. " The unofficial commentaries on the modified Code are of the unanimous view that this new provision is an attempt to define the concept of know-how and to give it some protection by law.)

As far as the protection afforded directly by the Civil Code is concerned, it is provided for in Article 87.

Paragraph (1) of the Article deals with moral rights: " Those whose rights in their intellectual works have been infringed — in addition to protection provided for by special laws — may also raise claims under civil law in case of infringement of personality rights. "

The possible legal consequences of personality right infringements are regulated by Article 84(1) of the Civil Code. Under this paragraph the person whose right has been violated may require:

(i) the establishment by a court of the fact of infringement;
(ii) discontinuance of the infringement and an injunction against the infringer to prevent further infringements;
(iii) the infringer to make redress by means of a statement or in some other appropriate manner and, if necessary, publicity as befits such redress be ensured by the infringer or at his expense;
(iv) cessation of the injurious situation, reinstatement of the situation preceding infringement by the infringer or at his expense; and he may further require the object produced through infringement to be destroyed or deprived of its injurious quality;
(v) compensation under the rules of civil liability.

Pecuniary rights are dealt with by Article 87(2): "On the basis of protection given to intellectual works not covered by special laws and to persons' economic, technical and organizing knowledge and experience, the owners of those rights may also require, from the persons having obtained or used their rights, a share of the economic result."

The presentation of these new provisions seemed to be necessary fo two reasons. On the one hand, because they serve as a background for copyright legislation and, on the other hand, because they are important when examining and deciding a number of borderline questions.

1 *(b)* The first such borderline question identified in the discussions on the interpretation of the amendments was that of the protection of computer programs.

As will be outlined in Part III of this "Letter," dealing with developments in case law, before the amendment of the Civil Code, jurisprudence tended to accept the standpoint according to which computer programs — if individual and original works were involved — should enjoy copyright protection.

Since the entry into force of the amendment there has been no lawsuit of a similar nature. We therefore do not know how Hungarian courts will react to the possibility of *sui generis* protection which, according to certain interpretations, has been provided by the new Act.

In my opinion, it is copyright law which continues to be the best possible system for the protection of computer programs in Hungary. Of course, the elaboration of a *sui generis* system would also be conceivable. However, it seems to me that such a system would only appear *sui generis* because it would have to be necessarily of copyright type, that is to say, a certain variation of copyright protection. (There is not enough space here to go into details but in my view also the nature of the model provisions elaborated by the WIPO Advisory Group [2] may confirm this opinion.) Furthermore, I have doubts whether the multiplication of protection systems instead of the utilization of the other suitable systems already in existence and operation would be a wise solution. We should also take into consideration the fact that the speeding up of technical progress, the emergence and very rapid proliferation of new types of works and new forms of use will raise similar questions fairly frequently in the future. If, in these cases, we decide in favor of a *sui generis* protection, even where it is not unavoidable, something like a crisis of overproduction of protection systems can develop. Such an inflation of systems does not seem very desirable.

As far as the presumed *sui generis* attempt of the amended Civil Code is concerned, its version is certainly less favorable than the existing copyright protection. As a matter of fact, we cannot even speak of a real alternative to copyright law. The new Act contains merely some fairly vague provisions on that question and they do not seem sufficient to be considered a system. In theory, an explanation could be given for that vagueness in that it would be the task of the courts to fill up the new rules with suitable contents. However, what could a court do, for example, with the condition laid down in the quoted Article 86(3) under which only those works enjoy protection which can be utilized by society in a wider field? What does this term "wider field" mean? Does it mean that, if a computer program can be utilized by only one or two users in the country, it is not eligible for protection? Or what is the correct interpretation of that part of the same paragraph which defines the end of the term of protection as the time at which the work becomes common property? This provision may sound as if the term of protection ends at the time the protection itself has failed, because the work has been used not as a particular person's intellectual creation but as common property. And what is more, this may seem to be in curious contradiction with the criterion of the wide use of the work by society, because there is a possible interpretation according to which, if a work is really widely utilized, it is not a positive condition of protection but, on the contrary, it may just signify the termination of protection.

I could go on listing my misgivings regarding the claim that the new civil law provisions would be suitable for the protection of computer programs. However, I think the points I have already made should be enough. It seems evident that under the Hungarian laws in force it is only copyright which

[2] *Copyright*, 1978, pp. 6-19.

can ensure satisfactory protection for such works. If there are some unsettled problems, they can be solved by a minor amendment of the Copyright Act or, better still, by a special implementing decree.

1 *(c)* Until the enactment of Act IV of 1977, Hungarian civil law did not provide any possibility for compensation where an infringement of personality rights had not caused any pecuniary losses (but, for example, only injury, trauma or defamation). The official reason for that legal situation was that the value of personality rights and the losses suffered in cases of their violation could not be expressed as an amount of money, thus the payment of any damages would be unreal and would not be in conformity with the very nature of personality rights.

Courts tried to reduce the effects of this rigid principle. They found a way out by interpreting the concept of pecuniary losses in an expanding way so that it also covered the expenditure necessary to mitigate or ease the effects of a non-pecuniary injury.

However, a real and definitive solution was only brought about by the new amendment of the Civil Code. Act IV of 1977 has instituted the possibility of compensation for non-pecuniary losses. The new Article 354 of the Code reads as follows: "The infringer shall compensate the injured person for his non-pecuniary losses if the infringement has made durably or seriously more difficult his participation in social life or his life in general . . ."

The official grounds for the Act make it clear that the legislator did not want to restrict the scope of the provision to injuries to health and corporal integrity, but also wanted it to cover cases of violation of other personality rights (rights of reputation, etc.).

For the time being, the provisions of the Copyright Act still express the former legal position which excluded any compensation for non-pecuniary injuries. Article 52(2) runs as follows: " If the violation of copyright has also caused any pecuniary damage, compensation shall be paid according to the rules of civil law liability. "

It seems obvious that the harmony between the Copyright Act and the Civil Code, as basic legislation, should be restored and compensation for non-pecuniary losses should be made possible also in the case of violation of authors' moral rights. However, the necessary harmonization of copyright law and civil law is not the only reason for such compensation. It is needed because it could make the system of sanctions more efficient. That system is sometimes not adequate to obtain appropriate redress for injuries and to restrain infringers from further breaches of the law.

Under the present legislation, the following sanctions are available in the case of copyright infringements:

The author, depending on the circumstances of the case,

(a) may demand establisment by a court of the fact of an infringement;

(b) may demand discontinuance of the infringement and an injunction against the infringer so as to prevent further infringements;

(c) may demand that the infringer make redress by means of a statement or in some other appropriate manner and that, if necessary, publicity as befits such redress be ensured by the infringer and at his expense;

(d) may demand cessation of the injurious situation, reinstatement of the situation preceding infringement by the infringer or at his expense; he may further demand that the object produced through infringement be destroyed or be deprived of its injurious quality (Copyright Act, Article 52(1)).

If we compare these sanctions with those available in case of violation of general personality rights (contained in Article 87(1) of the Civil Code and quoted above), we can see that they are practically the same, with the sole difference that the Civil Code offers a substantial plus: the possibility of compensation for non-pecuniary losses.

I have already mentioned Article 52(2) of the Copyright Act which provides for compensation for infringements of copyright having caused pecuniary losses. Of course, in cases of unauthorized use of a work, the author also has the right to appropriate remuneration (Article 53(1)). Furthermore, Article 53(2) provides as follows: " If an infringement is attributable to the user, a fine in the amount of the author's remuneration shall be adjudged in addition to the remuneration due to the author and in addition to damages." (The infringer therefore has to pay an amount which is practically twice the remuneration due in the case of lawful use. However, fines have to be paid not to the injured person, but to the account of the Ministry of Culture, which uses them for authors' social welfare purposes and for promoting culture.)

It can be seen that this system of sanctions puts the stress on compensating pecuniary losses and, in case of infringements of moral rights, does not entail any consequences of undue severity. This is why there is a great need for the possibility of compensation for non-pecuniary losses caused by such infringements.

There are two possible ways of re-establishing harmony between the Civil Code and the Copyright Act:

(i) We can maintain the simple reference to the rules of civil law liability. In this case, we have to modify the referring provision so that it covers non-pecuniary losses, too. Under this solution, Article 52 of the Copyright Act would be modified as follows: " In the case of infringements of copyright, compen-

sation shall be due to the author pursuant to the rules of civil law liability."

It seems to me that even if we established the possibility of compensation for non-pecuniary losses by means of such a referring provision, courts would only very rarely order infringers to pay such compensation. This would be so because judges would be faced with a very difficult question of interpretation: when could it be said that an infringement of moral rights had made the author's participation in social life or his life in general durably or seriously more difficult (the conditions established in Article 354 of the Civil Code)?

(ii) It is that very reason that makes another solution seem preferable. This would not be limited to a simple reference to the Civil Code, but would mean practically the adaptation of Article 354 of the Civil Code to the conditions of copyright law. The new provision could declare, for example, that in the field of copyright law serious non-pecuniary losses defined in the quoted Article would also cover serious infringements of moral rights (or serious damage to an author's artistic and professional reputation).

1*(d)* There is one more new provision in the amended Code which deserves special attention. It is Article 209 on general contractual stipulations. The purpose of this Article is to ensure protection against unilateral advantages stipulated in favor of organizations having a monopolistic position, in their so-called standard contracts.

Under Article 209(1) and (2), if a legal entity uses such a unilaterally determined general contractual stipulation which ensures unjustified one-sided advantages for itself, the injurious stipulation can be impugned in court by state or social organizations listed in a separate law. If the court finds the claim justified, it declares the stipulation null and void and this decision is valid for every present and future contract (with the exception of those already executed). Thus it is not a specific contract that is involved in such a lawsuit, but the injurious stipulation in general.

Of course, a person whose rights and interests are concerned by an unreasonable stipulation may also impugn it in court (Article 209(3) regulates that case). However, in such a case, the decision of the court is valid for that particular contract only.

According to the first official explanatory notes on the draft bill, the new provision on general contractual stipulations would have applied only to contracts concluded in the field of economy. However, it was obvious that organizations in monopolistic positions and, thus, contracts containing unilaterally stipulated conditions do also exist in the other fields of social life. That was true in the case of contracts on the use of works protected by copyright law. So it seemed highly necessary to interpret the provision in a way that would cover all cases where such a situation could arise. During the debate on the bill, various members of the National Assembly intervened in favor of such a wider interpretation and the Assembly accepted it. Furthermore, Decree-Law 2 of 1978 on the implementation of the Civil Code amendment has defined a list of those organizations which may impugn general contractual stipulations with the result that, under the relevant provision (Article 5(1)), the Bureau for the Protection of Authors' Rights will also be in a position to bring such an action.

2. On September 1, 1975, the Decree-Law on the protection of the producers of phonograms was promulgated with the aim of implementing the Phonograms Convention (No. 19 of 1975).

Article 1(1) of the Decree-Law reads as follows: "The consent of the phonogram's first producer shall be required — within twenty years from the end of the year of fixation — to the making wholly or partly of duplicates of the phonogram for the purpose of producing receipts and for distribution against compensation or for the purpose of public performance for profit."

Paragraph (2) of the same Article provides that the above quoted provision shall in no way be interpreted to limit or prejudice the protection otherwise secured to authors, performers and broadcasting organizations under copyright law.

Article 2 refers to the sanctions against the infringement of producers' rights. Under that Article, in the case of violation of the provisions of Article 1(1), the first producer of the phonogram may enter claims according to the rules of civil law.

III. Case Law

1. Borderline Questions of Folklore Protection Regarding Folktales

János Tombácz, an old countryman, was a well-known teller of folktales. He was awarded the title "Master of Folk Art" by the Hungarian Government for his services to the promotion of national folklore. His talent and ability were highly appreciated. Some of his tales were published in periodicals.

An ethnographer recorded János Tambácz's tales on tape for several years with the aim of publishing them in a book. The book was brought out only after the storyteller's death with the title "The Tales of János Tombácz," but it was the ethnographer who was shown as the author of the book. The ethnographer had written only the introduction and published the tales, without any alteration or stylization, the way they had been recorded. Another ethnographer had written footnotes to the tales.

The publisher had not paid János Tombácz or his heirs any remuneration. The heirs turned to the

Bureau for the Protection of Authors' Rights and asked for legal help.

The ethnography experts who wrote reviews on the book — including the ethnographer who had published it — were of the unanimous opinion that the old countryman had not only interpreted folktales but also enriched and developed them in a creative way. Having taken into account those opinions, it seemed to the Bureau that perhaps the tales involved might really be qualified as original ones or at least as such adaptations as were eligible for copyright protection. The Bureau therefore undertook to bring an action on the heirs' behalf. That lawsuit became one of the most interesting in the field of copyright law in recent years. It has raised many exciting questions in the borderline areas of folklore, ethnography and adaptation of folklore works and aroused wide interest.

The Municipal Court of Budapest, as the court of first instance, called upon the Committee of Copyright Experts to submit an expert opinion on the originality of János Tombácz's tales. The Committee was of the opinion that even in the field of those literary and artistic genres which were typical of folklore — like tales — the creation of individual and original works eligible for copyright protection was possible, and it was only their qualification and classification which were more difficult in such cases. The Committee of Experts stated that János Tombácz had used partly original and partly pre-existing elements, but he had put them together and adaptated them in an original way. It found the majority of the tales to be original primary works and the others to be adaptations, but also eligible for copyright protection.

The Municipal Court accepted that opinion upon which it then based its decision. It declared János Tombácz to be the author of the tales and ordered the publisher to pay the heirs appropriate remuneration.

The publisher appealed against the decision. The Supreme Court heard some more ethnography experts whose standpoint was different in many respects from that of the Committee of Copyright Experts. The Supreme Court accepted the newly heard experts' opinion, the main points of which were as follows:

Both the Committee and the court of first instance overestimated the new elements of János Tombácz's tales. They did not take into consideration that the new elements and the new variations in general had been created according to the laws of folktales and the tales had therefore remained within the domain of folklore.

Folktales exist in the form of oral tradition. They are always changing and have no constant written texts like the works of poetry have. Their wording is less precise, their structure is looser, they are without that care and purposiveness which are so characteristic of poetic works. In the opinion of the experts heard by the Supreme Court, those features of folktales were also identifiable in the case János Tombácz's tales.

The experts and, on the basis of their opinion, the Supreme Court have pointed out that the originality and authorship of tales has to be examined and decided according to the specific rules of folk poetry.

Two types of artists who pass on traditions and works of folklore can be distinguished: the preserving and the creative.

Of course, there is no clear-cut type. It cannot be supposed, for example, that a preserving type of storyteller always tells the tales word-for-word in the same way he heard them for the first time from another storyteller. Furthermore, such a storyteller tells the tales according to his own abilities and emotions and he more or less re-creates them even if his intention is only their simple reproduction. This can happen all the more because the reproduced tales generally exist in several versions and even the same storyteller does not always recount the same version. (There are such examples also in János Tombácz's case. Some of his tales appear in two versions in the book.)

The creative type of storyteller uses a wider range of traditions and widely-known cultural values. Mainly, this is because the variants created by him contain more new elements, nevertheless they still remain in the domain of folk poetry. Here variations and interpretations are parts of a more spontaneous than conscious creative activity, which is typical of folklore.

According to the Supreme Court decision (No. Pf. III. 21.062/1977/9), János Tombácz's activity did not go beyond the traditional limits of telling folktales. His tales cannot be qualified as independent and original works, but only as variants determined by the specific laws of passing on folklore. The tales — with the exception of two of them — can be directly or indirectly identified with one or other recorded folktale types. The identification of the two tales mentioned only causes some difficulty because they have been produced with a very intensive variation of the elements of folktales and other stories also widely known and handed on as an oral tradition.

On the basis of the above-mentioned statement of facts, the decision of the Supreme Court was obvious: the tales could not be qualified as individual and original works and were not eligible for copyright protection. Thus, the Supreme Court reversed the decision of the court of first instance and dismissed the claim of János Tombácz's heirs.

2. *The Protection of Computer Programs*

In Hungary the utilization of computers is not yet widely spread as in certain highly industrialized

countries. However, computerization has gathered momentum in recent years and the question of the protection of computer programs has arisen in this country too. It was the experts in industrial property protection who tried to solve the problem but, as in other countries and at international level in general, that protection system has not proved suitable for these purposes.

As far as case law is concerned, there has been only one lawsuit so far in Hungary relating to computer program protection. The subject of the legal dispute was the following: an engineer had elaborated a computer program for oil prospecting purposes and sold it to a foreign company. His former employer — a research institute — brought an action against him claiming that the prospecting method and the program were its property and the price received by the engineer should therefore be repaid to it.

The case was tried by the Municipal Court of Budapest. The decision of the court (No. 25. P. 27.228/1972/21) reflects very well the uncertainty of the legal situation in this field. The grounds of the decision contain the following: " For the time being, the special protection of computer procedures is not regulated by legal rules. Even those who are well-versed in industrial property questions do not know in which category to place computer procedures. In this lawsuit, the parties themselves were of the opinion that their dispute was a question of industrial property protection, and, according to the defendant's written statement, the disputed computer procedure should be qualified as know-how."

The court did not agree with that point of view. It asked the Committee of Copyright Experts to give an opinion on the case. According to the expert opinion, the elaboration of computer programs involves elements requiring creative activity, such as the identification of tasks to be solved by computerization, the formulation of those tasks in the exact way which is indispensable when using computers, the preparation of mathematical models, etc. Programs which do not simply result from routine operations, but from the above-mentioned creative activity, are original works. That was true also in the case of the program created by the defendant.

The court based its decision on the opinion of the Committee and declared that the disputed computer program was " a new and independent scientific intellectual work eligible for copyright protection." Consequently, it dismissed the plaintiff's claim and stated that it was the defendant as author who had the right of utilization of the program.

The plaintiff appealed against the decision but the case did not go to the Supreme Court, because the parties suspended the lawsuit at that stage by common consent and, after the expiration of the maximum term of suspension, it was discontinued.

The decision of the court was in conformity with the provisions of the Copyright Act. Article 1(1) defines the concept of a work. This provision is simple and of a general nature. It runs as follows: " This Act shall protect literary, scientific and artistic creations." The official grounds of the Act give some explanations of that short definition: " The Act protects the results created in the three major fields of intellectual activity — literature, science and arts. The designation of those results as creations underlines that they have been created by an activity which is special even in the field of intellectual work, and at the same time it refers to another criterion, namely, that those results have become perceptible in some form."

From the quoted provision and the official grounds given for it, one can deduce what seems to be the most important condition of copyright protection, namely, that a work has to be an individual and original creation. This condition is expressed also directly in certain other provisions of the Act (for example in Article 4(2) on adaptation).

Computer programs — with the exception of those cases where simply routine operations are involved — meet these criteria, and the only question is whether such a program could be qualified as a literary, scientific or artistic work. However, this question has to be answered in a positive way, since neither the Act nor the implementing decree (No. 9/1969 (XII. 29) MM) have given a limitative list of works and the works mentioned in the provisions of an illustrative nature in the decree also include some whose literary, scientific or artistic nature is far more questionable than that of computer programs (for example the blueprints of technical projects).

The protection of computer programs raises some questions which may cause problems of interpretation, if we try to apply the provisions of the Copyright Act. Those problems might justify a *sui generis* protection system as well. However, it seems to me that such a special system — as I have mentioned in point 1 *(b)*, Part II, of this " Letter " — would be similar in many aspects to copyright protection and its elaboration would be lengthy. At the same time, copyright protection is ready and suitable to protect such works. That is why it would be wiser to base the protection of computer programs — and software in general — on this system. The special problems could be settled by a separate implementing decree and — if necessary — a minor modification to the Copyright Act.

3. Joint Authorship and the Term of Protection

Until the new Copyright Act (No. III of 1969) entered into force, Hungarian jurisprudence was unambiguous and definite about the joint authorship of operas, operettas, musicals and other musico-

dramatical works: the composer, on the one hand, and the author of the libretto and lyrics on the other, had separate rights in their own parts. Under this legal situation, the terms of protection of music and text also had to be calculated separately after the composer's and the author's death, respectively. In practice, there was one exception: the case of the composer having participated in the creation of the text, or vice versa.

That legal practice was in conformity with the provisions of the former Copyright Act (No. LIV of 1921). Article 1(2)-(3) of that Act contained the following rules: " If the work has been created by more than one author and their parts are not separable, unless otherwise agreed, the consent of all the co-authors is necessary for the reproduction, publication and putting into circulation of the work."

The new Copyright Act does not seem to have brought any substantial novelty in its provisions on joint authorship. Paragraphs (1) and (2) of Article 5 read as follows:
" (1) Concerning a work of joint authorship, provided that it cannot be separated into self-contained parts, copyright shall be vested in the joint co-authors, and in case of doubt in equal proportions; however, any of the co-authors shall be entitled to take independent action for infringement of copyright. (2) If the joint work can be separated into parts without prejudice to the work, the co-authors shall be entitled to independent copyright in such parts."

The first lawsuit concerning joint authorship in a musico-dramatical work, after the entry into force of the new Copyright Act, took place in 1974. The result of that suit was fairly surprising. The Supreme Court has made a 180 degree turn and fundamentally changed legal practice regarding this form of authorship.

The subject of the lawsuit was the popular hungarian musical play " John the Hero " (János vitéz). Its libretto was written by K. Bakonyi, the words of its songs by J. Heltai and its music by P. Kacsoh. At the time of the lawsuit, the term of *post mortem auctoris* protection had elapsed since composer P. Kacsoh's death, but the other two authors had died less than 50 years before. The court had to decide whether the user (Hungarian State Opera House) was obliged to pay the composer's heirs any remuneration.

The legal point depended on the interpretation of the two types of co-authorship defined in the above-quoted Article 5(1) and (2) of the Copyright Act, because Article 15(2) of the Act reads as follows: " The fifty-year term of protection shall be counted from the first day of the year following the author's death and, in the case of joint co-authors (Article 5(1)), from the first day of the year following the death of the co-author who died last." We have to note that this provision covers only that version of co-authorship which is defined in Article 5(1) and not the other version provided for in Article 5(2). In the latter case (so-called " simple co-authorship ") the period of protection has to be counted independently, author by author, and not from the death of the last one of them.

The Municipal Court of Budapest, as court of first instance, obtained the opinion of the Committee of Copyright Experts.

The Committee had to answer the question whether the musical play could be separated into self-contained parts (music, libretto, lyrics), and whether this separation could be carried out without prejudice to the joint work.

The Court had not given any instructions on the interpretation of Article 5(1) and (2), so the Committee, before answering the questions asked by the Court, had to solve two points:

— firstly, it had to clarify the criteria of self-contained parts, separability and the separation of parts with and without prejudice to the joint work; and

— secondly, to identify those criteria in the case of the musical play in question.

The first task was completely of a legal nature, and it was only the second one which really needed the special professional skill of the Committee (composed of four composers and lyricists and only one lawyer). However, the Committee undertook to answer both groups of questions.

According to the expert opinion, " it is artistic and professional judgement — but in certain aspects also general public opinion — which have to be taken as basis for interpreting these legal definitions."

This starting point does not seem to be correct. General opinion or artistic and professional judgement can play an important role when deciding some disputed legal questions. But, it cannot be said that professional or public opinion instead of the usual interpretation methods (interpretation on the basis of grammar, logic, legal history and the structure of law), should decide on the interpretation of legal definitions.

In the opinion of the Committee of Copyright Experts, a joint work is inseparable " when the final work — taking into account its artistic form or the mode of joint creative activity — represents an inseparable unit." The Committee declared musico-dramatical works in general to be inseparable on the basis of their artistic form. The expert opinion states the following about " John the Hero ": " This musical play, according to artistic judgement and also to public opinion, is known as the result of the authors' joint creation and it has importance and value only in this form." The Committee adds to that statement that although " John the Hero " as a musico-dramatical work is an integral whole, that fact does not in

any way exclude the possibility of its parts being performed without prejudice to the work."

The Municipal Court accepted that opinion as not leaving any doubt and used it as the basis of its decision. According to the grounds of the decision " it is really very easily conceivable that the independent performances of the parts created by the co-authors represent less value for viewers and listeners — not only quantitatively but also qualitatively — than the joint work as an integral whole."

The Supreme Court, in its decision No. Pf. III. 21.027/1974/4, upheld the decision of the court of first instance. In the grounds of the Supreme Court decision the following statement is especially remarkable: " It would be wrong to examine the question of joint authorship only on the basis of whether the different authors' parts have been created simultaneously or whether those parts could be performed separately. The music and the other part of " John the Hero " are separable in the latter sense and the independent performance of those separable parts cannot be excluded. But the point is whether the parts separated and published or performed this way constitute self-contained works or are only parts of the joint work as an integral whole."

This decision has been strongly criticized by many copyright lawyers, who think it vague and not in conformity with the provisions of the Copyright Act.

Those who criticize the decision make the following points:

There is a peculiar relationship between paragraphs (1) and (2) of Article 5 of the Copyright Act. In the case of joint works there are only two possible categories: the category of " joint co-authors," that is of those co-authors whose parts are inseparable (paragraph (1)) and the category of " simple co-authors " whose parts are separable into self-contained parts (paragraph (2)). This is why when paragraph (1) of the Act gives a definition of joint co-authorship, it also defines in an indirect way the concept of " simple co-authorship." The same is true of paragraph (2) which gives a direct definition of simple co-authorship and an indirect one of joint co-authorship.

Taking into account the special relationship between those two definitions, there seems to be some contradiction between them.

Under paragraph (1):

— joint co-authorship exists if the parts of the joint work are not separable as self-contained works, and

— simple co-authorship is involved if the parts are separable.

Under paragraph (2):

— we can speak about joint co-authorship if the parts are not separable without prejudice to the joint work, and

— about simple co-authorship if the separation of parts is possible without prejudice to the work.

There is only seemingly a contradiction between these definitions, since they have done nothing else but formulate the same criteria from different viewpoints. The correct interpretation is that, if a work can be seen as a whole composed of self-contained parts, we can say that it is separable into parts without prejudice to the joint work. The court's decisions have raised some misgivings just because this special interdependency between the two elements of the quoted definitions has been overlooked.

Both the Committee of Copyright Experts and the court have stated that the joint work involved can be divided into self-contained parts (music, libretto, lyrics) and those parts are also independent inasmuch as they can be performed or published separately. If this is true, in what can we then see prejudice to the joint work when separating those parts? The answer of the Committee and the courts can be summed up in the following three statements:

— a work constitutes a whole and if we separate it into parts we break up its unity;

— the independent parts represent both quantitatively and qualitatively a lower value than the whole;

— even if the parts are performed separately they remain the parts of the joint work as a whole (we necessarily regard them as the music and the text of that work).

These statements appear incorrect for the following reasons:

— The legislator, when elaborating the Copyright Act, must have been fully aware of the fact that any original unity will necessarily be broken if the whole is separated into its self-contained parts, because the separation of parts is not conceivable in any other way.

— A part can be neither qualitatively nor quantitatively equal and identical with the whole (as far as qualitative differences are concerned, this is true at least in the case of parts belonging to different forms). It is obvious that the work as a whole represents a greater value than one or other of its parts. The legislator certainly did not consider that a prejudice to the joint work, because otherwise the separation of parts could never be carried out without prejudice to the work.

— The fact that parts, even if independently performed, remain the parts of a joint work (and thus do not become definitely and irrevocably independent) follows necessarily from the internal structural laws of wholes and parts. A whole consists of parts, but parts themselves can be conceived also as wholes at another level and as consisting of their own parts, and a whole is also a part of a more comprehensive whole. That cannot be relevant as a

prejudice to the joint work. What is important and relevant is whether parts are self-contained and can also be deemed as independent works in themselves or not.

We can speak about prejudice to a joint work if the authors' contributions cannot exist (and be performed or published) as self-contained works in themselves and, thus, if we take a part from the work, this part, as well as the remaining ones, becomes unusable and valueless.

This interpretation is unambiguously confirmed by the official grounds of the Act, which give just such an example (the only one) of joint co-authorship (i. e., referring to the variant defined in Article 5(1)). It mentions the case of a drama which has been written jointly by two authors. It is absolutely obvious that the parts of dialogue contributed by one of them could not exist as an independent work, and if one author's part were taken out, the joint work would lose its value and become absolutely meaningless. That would constitute a real prejudice to such a work.

In the case of operas, operettas, musicals and other musico-dramatical works, such a situation can result only if one of the authors has participated in the creation of another author's part (for example: a part of the text has been written by the composer).

We have dealt so far with the interpretation of Article 5 of the Copyright Act. But if we also take into account the other provisions of the Act, it becomes evident that the legislator has not left unanswered the question whether a musical work with text can be divided into its parts without prejudice to the work itself or not. Article 40(2) reads as follows: " In the case of a public performance of a musical work, the lyricist shall be entitled to remuneration only if the music of the work enjoys protection." And the official grounds for not leaving any place for doubt stress: " Some musical works also have text, and the text of these works enjoys independent copyright protection."

In the " John the Hero " case, the plaintiff put forward the argument that the above-mentioned provision and grounds do not cover musico-dramatical works, because Article 40(3) of the Act makes an exception: " The provisions of paragraphs (1) and (2) shall not apply to stage performances of a musical work ... created for the stage." The court accepted that argument. The Supreme Court even added an explanation of the reasons for the exception: " It very often does happen that it is only one co-author's outstanding intellectual work which raises the joint work above an average level. Particularly operas and other musical plays very frequently provide examples of this. It is generally known that the value of a libretto and lyrics is far lower than that of the music. The music by itself often keeps a work on the program, whose story and stage performance would not otherwise deserve public interest. The objective of the quoted provisions of the Copyright Act is to prevent a situation in which the author of the part ensuring the success of the work does not enjoy protection, while the other author, whose part is outdated and of lesser value, does."

In the text or official grounds of the Copyright Act no basis can be found for such reasoning.

The above-quoted statement of the Supreme Court implies the supposition that the Act stands on the basis of aesthetic differentiation and that it makes the extent of protection depend on the value of co-authors' contributions to the joint work.

However, the truth is that Hungarian copyright law has never accepted the idea of such a differentiation. The official grounds of the Copyright Act expressly stress the lack of aesthetic evaluation as an important principle. The concept of work is defined in Article 1, and the grounds given for that provision contain the following: " The Act, when providing for legal protection, does not differentiate among works on any qualitative basis."

Taking into account that legal position, it would be surprising and would indicate some internal contradiction in the Act, if, in cases of co-authorship, the relative values of parts were decisive factors.

It is not the principle of the independent protection of the music and text of musical works to which Article 40(3) makes an exception. This provision serves another purpose. If the legislator really had wanted to prevent a situation in which the " valueless " parts (text) were still protected and the " valuable " ones (music) did not enjoy protection any more, he would not have needed Article 40(3). What would the legislator have had to do to create a legal situation such as that which is supposed to exist by the Court? If we take into account Article 40(2), we can answer this question with one word: nothing. That is the answer because Article 40(2) provides for just the supposed result: under that provision, the text is protected only until the expiration of protection of the musical part, while the latter part remains protected also after the protection of the text has expired (if the 50-year protection term has not yet ended in respect of the composer). What follows from the exception made in Article 40(3) to Article 40(2)? Just the opposite of the legal situation supposed to exist by the Court. That provision means that the lyricist's heirs enjoy protection not only during the term of protection of the musical part, but also after its expiration (if the lyricist dies later than the composer). The Act has therefore not extended the possibility of free uses of the text established for " *petits droits* " performances in Article 40(2) to stage performances and the so-called " *grands droits* " works. The exception in Article 40(3) only empha-

sizes the position of the Act in considering musico-dramatical works as separable into self-contained parts.

Since the so-called " John the Hero " decision, the Supreme Court has dealt with another similar legal dispute. The subject of this lawsuit was the popular operetta " Sybill " by composer V. Jakobi and lyricists M. Brody and F. Martos.

In this suit, the Committee of Copyright Experts took into account the wide criticism against the " John the Hero " decision and completely changed its stand. According to the expert opinion given in the " Sybill " case, musico-dramatical works are generally separable into parts (music, libretto, lyrics) and that applies to " Sybill " too. The opinion has used practically the same arguments explained above as the basis for critical observations against the controversial Supreme Court decision.

The Supreme Court has not accepted the opinion of the Committee and has upheld its stand in general. It has made only one change, but this seems a substantial one. It has withdrawn its statement that every musico-dramatical work is inseparable without prejudice to the joint work on the basis of its very form. According to the new decision, the question of separability must be studied and decided independently in each disputed case, and the form of creation is not decisive alone. However, the Court used practically the same arguments as in the " John the Hero " case, and also declared " Sybill " to be an inseparable whole. It did that on the basis of aesthetic considerations (primarily on the relative aesthetic values of music, libretto and lyrics).

The change in the Supreme Court's stand has resulted in an extremely uncertain legal situation in the field of co-authorship. In this situation we cannot be sure about the nature of the co-authorship of a musico-dramatical work until a court decides on the relative aesthetic values and the separability of the parts created by the co-authors.

It has become obvious that this vague legal situation must be eliminated. In more and more copyright lawyers' opinions, the modification of the Copyright Act seems to be the best possible solution. A new amendment bill is under preparation which would make the provisions of Article 5 more unambiguous and would exclude the idea of aesthetic differentiation once and for all.

4. The Use of Works of Fine Art in Television Programs

Hungarian Television broadcasted a series of lectures on maternity, in which it used the original model of a Hungarian sculptor's statue representing a mother with her child. The statue was placed in the background of the scene, but it was shown several times alone, too — in close-up shots. In the last part of the series the lecturer presented the statue in detail — mentioning also its author's name — and spoke of it as the symbol of the series.

The Municipal Court of Budapest, as court of first instance, found for the plaintiff and declared that the Television had gone beyond the limits of free use afforded it by Article 19(3) of the Copyright Act. This provision reads as follows: " Television shall be authorized to make free use of works of fine arts, architecture and applied art, as well as of photographs, either on particular occasions or as settings. In cases of such use, an indication of the author's name shall not be obligatory." The Court stated that in the disputed case more than particular occasions had been involved because the statue had been presented in every part of the nine-part series, and it had been more than a simple element of the settings, because it had become the symbol of the whole series. The Court therefore ordered the defendant to pay the remuneration claimed by the plaintiff.

The defendant appealed against the decision. The Supreme Court dismissed the appeal.

The defendant contended in his appeal that during the 387-minute program the statue could be seen generally only for some seconds on each occasion and for no more than twenty minutes altogether, so the use had not exceeded the concept of " particular occasions." The Supreme Court agreed with the court of first instance in its statement that not only particular occasions were involved, but a systematic use of the work in every part of the series and it did not think important how long the statue was visible as compared with the total time of the series.

The defendant also contended that the statue was a part of the settings and its symbolic significance did not contradict that function. The Supreme Court did not accept that argument and stated that the statue not only occupied a central place, but that it was given much more prominence than any other element of the settings. It was qualitatively different from those elements. It did not remain in the background, but it was used directly by the lecturer as a means of expressing the ethical implications of the theme. This type of utilization of a fine art work goes far beyond the limits of free use under Article 19(3) of the Copyright Act. The Supreme Court therefore upheld the decision of the court of first instance (Legf. Bir. Pf. III. 21.392/1975).

5. Marital Property and Copyright

A very interesting and complicated legal dispute has been settled by the Presidential Council of the Supreme Court in its decision No. P. törv. 21.170/1976.

A painter's widow and son were involved in the lawsuit and the question was whether the paintings created during marital cohabitation had belonged to common marital property (and therefore half the

ownership had been acquired by the wife) or they had been objects of the painter's separate property (and thus had been inherited by the son).

Both the court of first instance and the Supreme Court, as court of second instance, found that the disputed paintings had become objects of common property. The Supreme Court's reasoning was the following:

According to Article 27(1) of the Family Act (Act on Family Law, No. IV of 1952, amended by Act I of 1974) the objects of the spouses' common property are those properties which have been acquired by the spouses either jointly or separately during their cohabitation, provided that those properties are not covered by the provisions on separate marital property. The possible cases of separate property are defined in a limitative way by Article 28 of the Family Act. This Article defines such cases as gifts, inheritance, etc., but no mention is made of intellectual works. This means that such works belong to common marital property. Article 27(2) of the Family Act does not question the correctness of that interpretation. It reads as follows: " Any remuneration due to an inventor, innovator, author or any other intellectual creator during the existence of marital cohabitation belongs to common marital property." This provision is not valid for every kind of realization of intellectual value. The value of an author's work can generally be realized only by way of contracts for its use. Thus it is natural that only the countervalues of such utilization — royalties and other remuneration — can become objects of marital property. However, paintings and other works of fine arts are different, because they represent in themselves certain values which — more or less precisely — can be expressed in an amount of money. The correct interpretation of the quoted provisions is therefore that paintings and similar works when created during the existence of marital cohabitation are objects of common marital property.

No ordinary appeal is possible against a Supreme Court decision. Only the President of the Supreme Court and the Chief Public Prosecutor can act against such a decision in exceptional cases where unlawfulness is involved. In this instance, it was the President of the Supreme Court who used that possibility and submitted an action against the decision.

If a Supreme Court decision is involved, such actions are tried by a wider body, the Presidential Council of the Supreme Court.

The Presidential Council took into consideration the following arguments:

Moral and pecuniary rights are interdependent and represent an inseparable whole. The personality nature of copyright must not be left out of consideration when trying to answer questions of marital property. Intellectual creative activity therefore must not be deemed a way of " acquiring " which would be covered by the quoted Article 27(1) of the Family Act. The value of an intellectual creation is generally determined by the original ideas expressing the creator's personality and by the bringing into existence of something new and individual. That is why in these cases the interests of the creators have to be prefered.

That explains why only those pecuniary results of intellectual creations realized during the existence of marital cohabitation belong to the spouses' common property. The time the value of an intellectual work is realized in pecuniary terms depends on the creator's decision. From this point of view, no differentiation can be made among works. Both a literary work and a painting have their own values. In the first case, the royalty paid for the right of publication and, in the second, the purchase price are the realization of those values. There is no difference of principle between the two types of revenue. They can be qualified either as common property or as separate according to the rules on marital property. Those rules make qualification depend on the time the payments are due. The Family Act takes into consideration the special character of intellectual works when providing in its Article 27(2) that only such remuneration belongs to the spouses' common property as is due during their marital cohabitation.

Any contrary interpretation would make an unjustified distinction between the creators of works of fine art and those of other intellectual works. Furthermore, such an interpretation would lead to undesirable consequences for the free exercise of creators' rights. If the works of fine art belonged to common marital property, the provisions on the administration of such property also would have to be applied (Articles 29 and 30 of the Family Act). The application of those rules would mean that during their cohabitation the spouses could only dispose of the works of fine art jointly. It is obvious that this would conflict with the author's moral rights. A further consequence would be that in the case of a divorce half the ownership of every work would automatically be obtained by the author's spouse, but at the same time this half would be blocked to a certain extent, because according to the proper interpretation of family and copyright law, the right of disposal would be owned exclusively by the author.

On the basis of the foregoing arguments, the Presidential Council of the Supreme Court declared the decisions of the courts of first and second instance unlawful and stated that the paintings belonged to the painter's separate property.

6. The Moral Rights of Performing Artists

In the field of the protection of performers there has been a very interesting lawsuit between three well-known Hungarian opera singers and Hungarian Tele-

vision. The case was tried by the Supreme Court and its decision (No. Pf. III. 21.371/1975) is of prime importance as regards the moral rights of performers. The essence of the decision is the following: if the Television uses a singer's registered voice (using the so-called " play back " technique) for a television film without his consent and in such a way that it seems to be another actor's voice, it is an infringement of the singer's moral rights.

There is need to report in detail on this important decision since an excellent article has already been published by Attila Bogsch and József Sólyi in the November 1976 issue of *Copyright*.[3] I have mentioned the case in this " Letter " just for the sake of completeness.

[3] Attila Bogsch and József Sólyi, " The Moral Rights of the Performing Artist in Hungary," *Copyright*, 1976, pp. 264-266.

International Activities

International Confederation of Societies of Authors and Composers (CISAC)

XXXI[st] Congress

(Toronto and Montreal, September 25 to 30, 1978)

At the invitation of the Canadian society Composers, Authors and Publishers Association of Canada Ltd (CAPAC), the International Confederation of Societies of Authors and Composers (CISAC) held its XXXI[st] Congress in Canada from September 25 to 30, 1978, meeting successively in Toronto and Montreal.

The opening session in Toronto was honored by the presence of Mr. John Roberts, Secretary of State for Canada, and Mr. Louis O'Neill, Minister of Communications, Quebec, attended the closing dinner in Montreal.

WIPO, invited to attend as an observer, was represented by Mr. Claude Masouyé, Director of the Copyright and Public Information Department. Unesco and a number of international non-governmental organizations, together with prominent figures from Canadian literary and artistic circles, also attended the Congress as observers.

Participation in the Congress, chaired by the German composer Werner Egk, included delegations from member societies of CISAC from the following 41 States: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, India, Ireland, Israel, Italy, Japan, Mexico, Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Senegal, South Africa, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uruguay, Venezuela, Yugoslavia; and from Hong Kong.

As usual, a number of matters of a purely administrative or internal nature were first discussed; the subsequent debates of the Congress centered on four topics:

— Rationalization and viability in the copyright field (report by Professor Dr. Erich Schulze, President and General Manager of GEMA, Federal Republic of Germany);
— The economist, a new force on the copyright scene (report by Mr. John Mills, General Manager of CAPAC, Canada);
— State intervention in the operations of authors' societies in Latin America (report by Mr. J. M. Fernandez Unsain, President of SOGEM, Mexico, and President of the Panamerican Council of CISAC);
— Sound and visual reproduction for personal use (report by Mr. Taddeo Collovà, SIAE, Italy).

The reports submitted were followed by interesting debates that led to the adoption by the Congress of a number of resolutions. The Congress also approved the resolutions submitted by the International Councils of Authors as a result of their activities during the period elapsing since the preceding Congress held in Paris in 1976. The text of these resolutions, giving CISAC's position on various matters of current concern in the field of copyright, is reproduced below.

At the close of its debates, the Congress proceeded with the renewal of the CISAC Administrative Council and Executive Bureau. Those elected included Mr. John Mills, General Manager of the Canadian society CAPAC, and Mr. Luis-Francisco Rebello, Chairman of the Governing Board of the Portuguese society SPA, who were appointed Chairman and Deputy Chairman, respectively, of the Executive Bureau. The Congress further elected the American author Stanley Adams as President of CISAC for the years 1978-1980 and the Soviet composer Rodion Shchedrin as Vice-President for the same period.

It is planned to hold the next CISAC Congress in November 1980 in Dakar, Senegal.

Resolutions

The XXXIst Congress of the International Confederation of Societies of Authors and Composers (CISAC), meeting in Toronto and in Montreal from September 25 to 30, 1978, adopted the following resolutions under the headings indicated below:

Cable distribution of television programmes

Having debated the problems arising from the cable distribution of television programmes,

Formally *recalls and confirms* its opposition in principle to the institution in this field of any system of non-voluntary licensing whose purpose would be to deprive the copyright owners represented by it of the possibility of freely negotiating with the cable distribution organizations concerned the amount of the remuneration to which they are entitled,

Remarks that the difficulties, mainly of a contractual nature, which might arise from the legal aspects of cable distribution of television programmes should be solved within the framework of a voluntary collective administration of the rights of authors and their assignees,

Accordingly *affirms* its intention to ensure that the new structures necessary to the granting of copyright licences that the cable television organizations concerned must obtain be promptly set up by seeking an agreement with the international organizations representing the interests of the producers and distributors of cinematographic works and those of the broadcasting organizations whose programmes are distributed by cable.

Compatibility with the Berne Union Convention of national legislations

Informed of the plans tending to allow certain developed States to accede to the Berne Convention by way of a special protocol even though their national legislation does not meet all the Convention regulations,

Considers that these plans would have the effect, in particular, of reducing the minimum level of protection for literary and artistic works solely in favour of the said developed States and accordingly solely to the detriment of the present members of the Union,

Emphasizes that these States, although not members of the Berne Union, already possess through accession to the Universal Copyright Convention all the necessary means to ensure the international protection of their authors, including in the countries parties to the Berne Convention,

Believes that in these circumstances the said plans, which would have the effect of weakening the general level of protection and are therefore fundamentally opposed to the spirit and letter of the Berne Union, should be condemned,

States, moreover, that it is satisfied with the duality of the Convention systems and the links which ensure their complementary purpose and maximum efficiency in the interest, particularly, of the developing countries, which thus have available to them the indispensable diversity of choice which is justified by the specific situation under their national laws,

Consequently *demands* urgently that this situation be not impaired.

Sound and visual reproduction for personal use

In the light of the report presented to it on sound and visual reproduction for personal use,

Informed of the results of the deliberations led at Geneva in February 1977 and at Paris in September 1978 on the initiative by Unesco and WIPO on legal problems arising from the use of sound and audiovisual carriers,

Considers that the recording or fixation of protected works by individuals in their homes for personal use by means of machines and on carriers reproducing sounds and images does not lie within the framework of the exceptions to the exclusive right of reproduction allowed by Article 9(2) of the Berne Convention,

Recalls that, under Article IVbis of the Universal Copyright Convention, wherever exceptions are granted to the author's fundamental rights a reasonable degree of effective protection shall be granted to the right to which exception is made,

Notes the impossibility for copyright owners of effectively exercising the prerogatives of their exclusive right directly in relation to the users who make recordings and fixations of protected works within their homes,

Emphasizes that it is urgent for national legislators to institute practical measures for establishing a royalty on machines and carriers destined to reproduce sounds and images within the home in order to redress the grave prejudice caused to copyright owners.

Copyright protection in Polynesia

Welcomes with warm feelings of friendship the President of the young Polynesian Society of Authors, Composers and Music Publishers (SPACEM) and expresses to him wishes for its success, particularly in developing and diffusing the Tahitian musical heritage,

Notes with satisfaction the first general contracts which have been made between SPACEM and certain users' unions,

Deplores, however, the hostile attitude of groups which continue to use the world repertoire of music in disregard of authors' rights,

Expresses its solidarity with SPACEM in its task of ensuring respect, if necessary by means of interdictions, for the basic rights of intellectual property and remuneration due to creative workers,

Relies upon the local authorities to aid SPACEM in carrying out its mission.

Increase in the royalty rate for the broadcasting right in Japan

Reaffirms its total support for JASRAC in the representations now being made by that Society to the relevant authorities of its country, in particular the Agency for Cultural Affairs, with a view to achieving an increase in the broadcasting royalty rate justly demanded by this Society,

Most sincerely *hopes* that a decision to that effect by the Agency for Cultural Affairs will be made as soon as possible, thus meeting the unanimous wish of the authors represented by JASRAC.

Share of subsidies in the remuneration of dramatic authors

In the light of the policy of subsidies in favour of theatres which, in various degrees and in accordance with varying formulae, is followed in almost all countries, and one of whose consequences is a decrease in the price of seat tickets, in order to facilitate — as is legitimate and desirable — access by the widest public to theatrical entertainment,

Noting that the result of this practice for authors, if the traditional system of remunerating them by way of a certain percentage of the product of ticket sales is maintained, is an appreciable diminution in the amount of this remuneration,

Emphasizing the serious prejudice which is thus occasioned to contemporary dramatic creation, that it is incumbent on the confederated societies of dramatic authors to seek energetically and urgently solutions which, in conformity with the resolution adopted by CISAC in 1972 at its Mexico Congress, enable "the said subsidies to contribute to the remuneration of dramatic authors,"

Recommends to these societies that, in concert with the professional associations or unions of dramatic authors of their countries, they make the necessary representations to the public authorities in order to bring to their attention the problem in question and which demands a rapid solution, in default of which serious consequences may follow for the future of a profession already under threat,

Recommends more particularly the inclusion in the method of collection of authors' royalties, calculated in accordance with the percentages currently practised, not only of box office receipts, including the product of subscriptions, but also of all subsidies paid either by the public authorities (state, provincial, municipal, etc.) or by private organizations.

Uses of musical works legally exempt from payment of copyright royalties

In the light of the report presented to it on the uses of musical works — in the cases particularly of teaching, religious services and the army — which, in a certain number of countries, are legally exempt from payment of copyright royalties,

Emphasizes the inequity of such a situation since, with the exception only of authors/composers, all those who make any contribution to the functions of the institutions in question are generally remunerated for their services,

Considers that the public interest aims of the said institutions cannot reasonably be pursued to the detriment exclusively of the creators of literary and musical works, whose role is important, even sometimes fundamental, to the activities of these institutions,

Urges that an end be put to this discrimination,

Hopes that the authors' societies concerned will take every opportune step, through the most appropriate channels, to have this situation remedied.

Social circumstances of authors

Informed of the conclusions by the Meeting of Experts convened at Geneva from August 29 to September 2, 1977, jointly by ILO and Unesco for the purpose of laying down the bases for a preliminary study of the technical and legal aspects of the situation of artists,

Welcomes with great interest the initiative taken by the two aforesaid organizations with the aim of inciting coordinated international action for the protection and promotion of the arts and artists in contemporary society,

Recalls in this connection that the authors of literary, musical, artistic and scientific works, as it is expressed in CISAC's Charter of the Authors' Right adopted at Hamburg in 1956 on the occasion of its XIXth Congress, play a spiritual role whose benefits extend to humanity in general, endure for all time and are decisive in shaping the course of civilization, and that the State, consequently, should ensure to the author the widest possible protection in consideration not only of his personal achievement but also of social welfare and the role he plays in society,

Emphasizes that very varied categories constitute the world of the arts and work in this domain and that it is indispensable, in approaching the problems in question, to avoid any confusion between artists who create the aforesaid works and artists who, using the said works, bring to them a rendering of their interpretation or their performance and whose legitimate interests can only be apprehended in their own sphere without thereby causing any prejudice to creative artists in the exercise of their prerogatives as authors of the works used,

Remarks, moreover, that the aforesaid Meeting of Experts expressly recognized in its conclusions the variety of categories and situations in the artistic profession consequent, in particular, on the relative position of the said categories in the artistic process,

Requests that CISAC, through its relevant bodies, be closely associated with all stages of the studies which are to be made with a view to drafting the appropriate international instrument proposed by the Meeting of Experts at Geneva with the object of improving the situation of artists.

Book Reviews

Le droit d'auteur en France, by *Henri Desbois.* Third edition. One volume of 1014 pages. Editions Dalloz, Paris, 1978.

In 1950, Professor Henri Desbois, who at the time was teaching at the Grenoble Faculty of Law, brought out a work, published by Dalloz, with the assistance of the *Centre national de la Recherche Scientifique*, entitled *Le droit d'auteur.* That publication was indeed a timely one, and its two sections, " French Law " and " The Revised Berne Convention," ably described the scope of the work. Copyright legislation in France was still based on the revolutionary Decrees of 1791 and 1793 which, apart from a number of laws governing matters of detail, had permitted case law to develop and grow into a sort of " court code of copyright. " Obviously, there remained many loopholes in the legal provisions and these loopholes tended to grow even more numerous as new technological uses of works appeared. It became necessary to codify the case law by an act of legislation, and the Interministerial Committee for Intellectual Property studied the reform from which was to emerge the Law of March 11, 1957. The Berne Convention, for its part, had recently been revised, in 1948, at Brussels as regards a number of its principal substantive provisions. Professor Desbois felt there was a need to make a survey of these two aspects. His book was honored by the *Académie des sciences morales et politiques* and was given an excellent reception from the professional circles. It soon became *the* treatise on copyright in France, i. e., the authoritative work to which both practitioners and professors of law constantly referred.

In 1966, a second edition appeared from the pen of Professor Desbois, who was now teaching at the Paris Faculty of Law and Economics. Events had followed their path, the relentless march of time had continued, in copyright just as in other fields, the new French Law of 1957 had been promulgated and preparations for a further revision of the Berne Convention, that of Stockholm (1967), were in full swing. All in all, the author felt the time had come to recast once again his " treatise " in the light of developments, including those of French case law, which had found in the 1957 legislation a much more precise basis for its decisions than had earlier been the case. This second edition was fuller, more structured, more attractive since it kept much closer to French legislative reality, and justifiably won undivided praise.

But the evolution of law continues and the more problems arise the faster it moves. Dalloz therefore published in 1973 a short updating of his work by Professor Desbois, that foreshadowed the third edition, which his honorary status was to allow him bring to fruition in all tranquillity.

The third edition has just come off the presses and homage must be paid to this imposing work which, like its predecessors, compels admiration for both the clarity of its analysis and the abundance of its commentaries, not to forget the elegance of its style.

It is hardly necessary here to review in minute detail the work of Professor Desbois since it is so well known to all and constitutes for everyone an extremely precious source of references both to French law and to the conventional law that has emerged from the 1971 revisions of the multilateral copyright conventions. The reader will find an unsurpassed quantity of information, a comprehensive description of the French Law and its application in the courts, an engaging account of present-day international relations in the copyright field.

Let us, however, simply point to the great merits of this third edition which, amidst the various solutions arrived at by the judges, underlines the recent trends in the specific problems of copyright law in France. Against a backcloth of the Law of March 11, 1957, the decisions of the tribunals, appeal courts and of the *Cour de cassation* sometimes confirm the doctrine and sometimes contradict it, leaving a number of questions without a clear-cut answer. In this connection, Professor Desbois compiles throughout his work a revealing list of noteworthy cases and draws attention to the seriousness of the problems raised by the reprographic reproduction of works, by the cable distribution of television programs, by the parasitic activities in the use of phonogams and videograms and by the preservation of moral rights. This does not mean, however, that he neglects the international aspect, where he notes that, subject to temporary measures taken in favor of the developing countries, the basic rights afforded to authors have been consolidated.

Professor Desbois concludes his masterly analysis by saying that " the work of the judges, and that of those commenting their rulings, is never done. " That is certainly true and the subject will continue, as always, to give rise to ample thought, but the contribution made once again by Professor Desbois warrants particular mention and acclaim for the remarkable way in which it has enriched the literature of copyright, both French and international.

C. Masouyé

Calendar

WIPO Meetings

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

1979

January 29 to February 2 (Geneva) — International Patent Classification (IPC) — Committee of Experts

January 29 to February 2 (Geneva) — Subcommittee of the Intergovernmental Committee of the Rome Convention on the Implementation of the Convention (convened jointly with ILO and Unesco)

January 31 to February 5 (Pattaya) — Group of Experts on the Legal Protection of Inventions, Innovations and Know-How in the Countries of the ASEAN Region (organized jointly by WIPO and the Government of Thailand)

February 5 to 9 (Geneva) — Berne Union — Executive Committee (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

February 5 to 9 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information

February 12 to 14 (Geneva) — "PCT and Budapest Treaty" Working Group

February 14 to 16 (Geneva) — Madrid Union — Assembly and Conference of Representatives

February 26 to March 2 (Geneva) — Trademark Registration Treaty (TRT) — Interim Committee

March 5 to 9 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

March 5 to 9 (Geneva) — Development Cooperation (Industrial Property) — Working Group on the Model Law for Developing Countries on Inventions and Know-How

March 12 to 16 (Dakar) — Permanent Committee for Development Cooperation Related to Industrial Property

March 12 to 16 (Dakar) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights

March 20 to 30 (Geneva) — Revision of the Paris Convention — Provisional Steering Committee

April 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries

April 25 to May 1 (Geneva) — Patent Cooperation Treaty (PCT) — Assembly

April 30 to May 3 (Geneva) — Budapest Union (Microorganisms) — Interim Committee

May 1 to 4 (Geneva) — WIPO Budget Committee

May 28 to June 1 (Geneva) — Berne Union — Working Group on Problems Arising from the Use of Electronic Computers (convened jointly with Unesco)

June 11 to 15 (Paris) — Satellites Convention — Committee of Experts on Model Provisions for the Implementation of the Convention (convened jointly with Unesco)

June 11 to 15 (Geneva) — Nice Union — Preparatory Working Group

June 18 to 29 (Geneva) — Revision of the Paris Convention — Working Group on Conflict Between an Appellation of Origin and a Trademark

June 25 to 29 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information, and ICIREPAT Technical Committee for Standardization (TCST)

July 2 to 6 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the overall prohlems posed for developing countries concerning access to works protected under copyright conventions (convened jointly with Unesco)

July 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information

July 9 to 12 (Geneva) — Paris Union — Meeting of Experts on Industrial Property Aspects of Consumer Protection

September 10 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lishon Union)

October 15 to 26 (Geneva) — Nice Union — Committee of Experts

Octoher 18 and 19 (Geneva) — ICIREPAT — Plenary Committee

October 22 to 26 (Geneva) — Permanent Committee on Patent Information (PCPI), and PCT Committee for Technical Cooperation (PCT/CTC)

October 22 to 24 and 30 (Paris) — Berne Union — Executive Committee (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

October 25, 26 and 31 (Paris) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)

November 26 to December 13 (?) (Madrid?) — Diplomatic Conference on Double Taxation of Copyright Royalties (convened jointly with Unesco)

November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software

December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts

1980

February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference

UPOV Meetings

1979

January 30 to February 1 (Corsica) — Technical Working Party for Fruit Crops

March 26 to 28 (Geneva) — Technical Committee

April 24 and 25 (Geneva) — Administrative and Legal Committee

April 26 and 27 (Geneva) — Consultative Committee

May 21 to 23 (La Minière, France) — Tecbnical Working Party for Agricultural Crops

June 5 to 7 (Avignon) — Technical Working Party for Vegetables

Jnly 17 to 19 (Hanover) — Technical Working Party for Ornamental Plants

September 18 and 19 (Geneva) — Administrative and Legal Committee

September 25 to 27 (Wageningen) — Technical Working Party for Forest Trees

October 16 and 19 (Geneva) — Consultative Committee

October 17 to 19 (Geneva) — Council

November 12 to 14 (Geneva) — Technical Committee

November 15 and 16 (Geneva) — Administrative and Legal Committee

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

1979

Non-Governmental Organizations

International Federations of Musicians (FIM) and of Actors (FIA)
Symposium on the International Protection of Performers and of their Rights — January 10 to 12 (Geneva)

International Writers Guild (IWG)
Congress — May 21 to 25 (?) (Helsinki)