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# Copyright

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## Editor's Note

### ANNOUNCEMENT

#### Merger of WIPO Reviews, *Industrial Property* and *Copyright*

As of January 1, 1995, the monthly reviews of the World Intellectual Property Organization (WIPO), *Industrial Property* and *Copyright*, will be merged into a single monthly review under the title *Industrial Property and Copyright*.

Current subscribers to one or both of the existing two reviews will receive the new merged review provided they send to WIPO by December 31, 1994, the completed subscription form inserted in this issue.

The annual subscription rate for the merged review will be 210 Swiss francs for Europe and outside Europe by surface mail, and 300 Swiss francs outside Europe by airmail. All subscribers will then be receiving the equivalent of two reviews instead of one as from the beginning of 1995.

As far as the legislative texts inserted in the existing reviews are concerned, all subscribers to the merged review will receive both sets of industrial property and copyright and neighboring rights laws. It will no longer be possible to subscribe separately to the legislative texts only; the merged review and the legislative inserts relating to the two fields will only be available as a single subscription.

## Notifications Concerning Treaties Administered by WIPO in the Field of Copyright

### Rome Convention

#### Partial Withdrawal of Reservations and Modification of a Reservation

#### FINLAND

The Government of Finland, in a communication dated February 10, 1994, withdrew the reservations to Articles 6.2 and 16.1(b) of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), done at Rome on October 26, 1961, which read as follows<sup>1</sup>:

With regard to Article 6, paragraph 2: protection will be granted to broadcasting organisations only if their headquarters is

<sup>1</sup> In this connection, see *Copyright*, 1983, p. 287, concerning the deposit, on July 21, 1983, of the instrument of ratification by Finland of the said Convention.

situated in another Contracting State and if their broadcasts are transmitted from a transmitter situated in the same Contracting State.

With regard to Article 16, paragraph 1(b): the provisions of Article 13(d) will be applied only to the communication to the public of television broadcasts in a cinema or other similar place.

(Original: English)

and amended, reducing in scope, the reservation with regard to Article 16.1(a)(ii) to read as follows:

The provisions of Article 12 will be applied solely with respect to broadcasting as well as to any other communication to the public which is carried out for profit-making purposes.

(Original: English)

#### Accession

#### ICELAND

The Government of Iceland deposited, on March 15, 1994, its instrument of accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention), done at Rome on October 26, 1961.

The said instrument contained the following declarations:

Iceland, pursuant to Article 5, paragraph 3, will not apply the criterion of fixation.

Iceland, pursuant to Article 6, paragraph 2, will protect broadcasts only if the headquarters of the broadcasting organisation is situated in another Contracting State and if the broadcast was transmitted from a transmitter situated in the same Contracting State.

Iceland, pursuant to Article 16, paragraph 1(a)(i), will not apply Article 12 with respect to the use of phonograms published before 1 September 1961.

Iceland, pursuant to Article 16, paragraph 1(a)(ii), will apply Article 12 solely with respect to use for broadcasting or for any other communication to the public for commercial purposes.

Iceland, pursuant to Article 16, paragraph 1(a)(iii), will not apply Article 12 as regards phonograms the producer of which is not a national of another Contracting State.

Iceland, pursuant to Article 16, paragraph 1(a)(iv), will, as regards phonograms the producer of which is a national of another Contracting State, limit the protection provided for in Article 12 to the extent to which, and to the term for which, the latter State grants protection to phonograms first fixed in Iceland.

(Translation) (Original: Icelandic)

In accordance with its Article 25.2, the Convention entered into force, with respect to Iceland, on June 15, 1994.

## Normative Activities of WIPO in the Field of Copyright

### WIPO Worldwide Symposium on the Future of Copyright and Neighboring Rights

**"The most sacred property" faced with the challenges of technology and trade**

(Paris, June 1 to 3, 1994)

From June 1 to 3, 1994, WIPO organized, in cooperation with the Ministry of Culture and Francophonie of France, the WIPO Worldwide Symposium on the Future of Copyright and Neighboring Rights, in the new wing of the Louvre in Paris, under the general theme "'The most sacred property' faced with the challenges of technology and trade." The Symposium was opened by Dr. Arpad Bogsch, Director General of WIPO, and by Mr. Jacques Toubon, Minister of Culture and Francophonie of France. Five hundred and forty participants from 66 countries attended the Symposium, which examined in depth the following questions: whether basic notions of copyright and neighboring rights (such as the definition of work, originality and authorship) had to be revisited in the face of new technologies; what challenges digital technology would pose to producers and disseminators of works; how copyright and neighboring rights should be protected and administered in the digital age and, finally, what structural changes, if any, were needed to the international copyright system.

The ability of the international copyright and neighboring rights systems to adapt to technological evolution was underscored by many speakers. Indeed for many years, most of the modernization was secured through the work of committees of experts meeting under the auspices of WIPO, which studied all important issues, from satellite broadcasting to piracy and from the protection of computer programs and data bases to reprography. Model provisions were also discussed, in what was termed a period of "guided development."

However, in the eyes of a number of governments, new norms were required to provide a multilateral framework for "new" rights, such as the right of rental, as well as measures concerning the enforcement of rights. Work in this field started at the end of the 1980s in various fora. Since then, it has become obvious that the digital revolution would necessitate not only some new rights (e.g., for digital delivery systems such as video-on-demand), but also a deeper

reexamination of existing rights, some of which could take unprecedented importance in certain cases, while others may progressively fall into disuse.

The Symposium addressed those questions through a series of lectures by leading experts and discussions after their presentations. The following persons acted as moderators of the successive sessions: Dr. Arpad Bogsch, Mr. Paul Florenson (Sous-directeur des affaires juridiques, Direction de l'administration générale, Ministère de la culture et de la francophonie, Paris), Mr. Henry Olsson (Special Government Adviser, Ministry of Justice, Stockholm), Mr. Paul Vandoren (Head of Unit XV, E4, European Commission, Brussels) and Mr. Bruce A. Lehman (Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Washington, D.C.).

The following papers were presented:

- "Adaptation of Copyright: Legal Considerations," by Professor Pierre Sirinelli (University of Paris XI, Paris);
- "Authorship and New Technologies from the Viewpoint of Civil-Law Traditions," by Dr. Thomas Dreier (Head of Department, Max Planck Institute for Foreign and International Patent, Copyright and Competition Law, Munich);
- "Authorship and New Technologies from the Viewpoint of Common-Law Traditions," by Professor Peter Jaszi (Washington College of Law, The American University, Washington, D.C.);
- "The Notions of Work, Originality and Neighboring Rights from the Viewpoint of Civil-Law Traditions," by Professor Michel Vivant (University of Montpellier, Montpellier);
- "The Notions of Work, Originality and Neighboring Rights from the Viewpoint of Common-Law Traditions," by Professor William Comish (Cambridge University, Cambridge);
- "Audiovisual Industry: Economic and Legal Challenges," by Mr. Pascal Rogard (Managing Director, Association of French Film Producers and Exporters, Paris);

– “Recording Industry, the First Cultural Industry Fully Exposed to the Impact of Digital Technology,” by Mr. Nicholas Garnett (Director General and Chief Executive, International Federation of the Phonographic Industry (IFPI), London);

– “Computers, Digital Technology and Copyright,” by Professor Zentaro Kitagawa (Kyoto University, Kyoto);

– “Publishing in the Digital Age,” by Mr. Hubert Tilliet (Legal Director, National Publishers’ Association, Paris);

– “New Technologies and the Protection and Administration of Authors’ Rights,” by Mr. Jean-Loup Tournier (Chairman of the Board, Society of Authors, Composers and Music Publishers (SACEM), Paris);

– “New Technologies and the Protection and Administration of the Rights of Performers,” by Mr. François Parrot (Managing Director, French Performers’ Association, Paris);

– “Reprography, Electrocopying, Electronic Delivery and the Exercise of Copyright,” by Mrs. Tarja Koskinen (Chairman, International Federation of Reproduction Rights Organizations (IFRRO), Helsinki);

– “Using Computer Technology to Solve the Copyright Problems Raised by Computer Technology,” by Mr. Péter Gyertyámfy (Director General, Hungarian Bureau for the Protection of Authors’ Rights (ARTISJUS), Budapest);

– “Protection of the Rights of the Creators of Audiovisual Works,” by Mr. João Correa (Secretary General, International Association of Audio-Visual Writers and Directors (AIDAA); Secretary General, European Federation of Audiovisual Filmmakers (FERA), Brussels);

– “New Technologies and Copyright: Need for Change, Need for Continuity,” by Dr. Mihály Ficsor (Assistant Director General, WIPO);

– “Surveying the Borders of Copyright,” by Professor Jane Ginsburg (Columbia University, New York);

– “Copyright and Private International Law in the Face of International Diffusion of Works,” by Professor Georges Koumantos (University of Athens, Athens);

– “Harmonization of Copyright in the European Union,” by Professor Frank Gotzen (Principal, Catholic University of Brussels (K.U. Brussel); Professor, Catholic University of Louvain (K.U. Leuven);

– “Copyright and Author’s Right in the XXIst Century,” by Professor Paul Goldstein (Stanford University, Stanford, California).

On the last day, Professor André Lucas (Faculty of Law, University of Nantes) presented a summary of the discussions.

A compendium containing the text of all the papers presented at the Symposium will be published later this year.

## Working Group on the Establishment of a Voluntary International Numbering System for Musical Works and for Phonograms

(London, April 20, 1994)

1. The meeting was held at the offices of the Secretariat of the International Federation of the Phonographic Industry (IFPI). The representative of the International Bureau of WIPO acted as moderator.<sup>1</sup>

### *Background and Purpose*

2. The purpose of the meeting was to discuss in depth the possible establishment of a voluntary international numbering system for musical works and for phonograms, bearing in mind that a number of systems were currently in use, as had been stated by many participants at the Consultation Meeting on

the Establishment of a Voluntary International Numbering System for Certain Categories of Literary and Artistic Works and for Phonograms held in Geneva on February 14 and 15, 1994, at which this and three other working groups had been created.

3. The moderator summarized the background to the meeting and the discussions at the above-mentioned Consultation Meeting (notably paragraphs 19 to 23 of the note to be published in the April 1994 issue of *Copyright*,<sup>2</sup> an advance copy of which was distributed to the participants). He indicated that the meeting should focus its attention, first, on the possible application (with or without changes) of existing numbering systems. Other related questions could be discussed at the end.

<sup>1</sup> A list of the participants may be obtained on request from the International Bureau.

<sup>2</sup> See *Copyright*, 1994, pp. 108 to 112.

4. Many participants reaffirmed the need for a harmonized numbering system, which would lower administration costs for both collective administration organizations representing authors, publishers, composers and performers, and for producers. The existing systems were essentially the International Standard Recording Code (ISRC) developed by IFPI-ISO standard 3901—and currently used by many producers, including all major producers, the International Standard Music Number (ISMN) for sheet music, recently adopted by the International Organization for Standardization (ISO), the *compositeurs, auteurs, éditeurs* (CAE) numbering system developed by the International Confederation of Societies of Authors and Composers (CISAC) and managed by the Swiss Society for Authors' Rights in Musical Works (SUISA) for authors, composers and publishers and a number of autonomous systems developed by individual societies.

#### *International Standard Recording Code (ISRC)*

5. As regards the ISRC, participants welcomed its progressive extension to almost all recordings. This code identified each recording (or track) on a digital sound carrier. An IFPI representative declared that other interested parties could use this number for their own purposes and that the necessary information concerning the code would be made available by IFPI, upon request. This offer was welcomed by many participants. Some also stated that the ISRC had a decisive advantage at this juncture, i.e., the fact that it was widely used and in a uniform way.

6. Participants representing collective administration organizations of authors and publishers suggested that producers should add a "work" code to the ISRC, though without changing the ISRC itself. While it was technically possible to add such a code, or other similar information, this would require the support of all those concerned, including producers. From the authors' and music publishers' viewpoint, a work could be performed many times, and each such performance could receive a distinct ISRC number, while the work itself (and, hence, the distribution of revenues based on its performance or mechanical reproduction) remained the same. The representative of IFPI added that the encoding of every performance of a work using the ISRC was only possible when such performance was fixed and pre-mastered. Naturally, as a prerequisite, a single international work number had to be agreed, possibly on the basis of the World List of "active" works (hereinafter the "World List") managed by the American Society of Authors, Composers and Publishers (ASCAP), which, however, in its present configuration did not use a common numbering system for all works.

7. Representatives of performers' societies also felt that a number identifying the societies which were mandated to collect revenues on behalf of performers, i.e., the society in the country of fixation or where the majority of performers resided, (or in other cases the performers themselves) whose performances were incorporated in a particular recording should similarly be added to the ISRC. This would greatly facilitate administration of the rights of and by all those concerned. They also stressed that a future coordinated system should be based on the principle of equal treatment of the different categories of rights holders.

8. Naturally, any system incorporated in a digital recording and transmitted as a sub-code would (ideally) have to be picked up either by a device installed at the point where the material is used or where it is received (e.g., through digital broadcasting or digital delivery, including on so-called "electronic superhighways"), but the latter situation was possible only in a fully digital environment. This would be better than having to rely solely on individual reporting by users, even though a common code would have the advantage of allowing simpler, more uniform reporting. In this respect, a participant expressed the view that users, notably broadcasters, should have an obligation to report on any use of protected material and that this item could be added on WIPO's norm-setting agenda.

9. Answering a question from performers' representatives, the IFPI representative confirmed that an ISRC code could be attributed to all fixed performances, not only those contained on commercial phonograms. This would apply, for example, to music libraries.

10. A participant suggested that unique digital samples of recorded sound (which were being collected by radio performance monitoring operations using BDS and RCS technologies) could eventually be an alternative to the ISRC in certain situations and serve as a base for a common numbering system.

11. In conclusion, all participants felt that the ISRC, even in its present form, could constitute a useful tool. Some participants suggested that it be used as a common denominator, i.e., with appropriate cross-linkages between the ISRC data base and other data bases. The moderator stated that the ISRC was there and could thus be used immediately, in the light, amongst other things, of the IFPI offer to make available all the necessary information about the structure of the data bases, as defined in the *ISRC Practical Guide*. It was, of course, up to participants to decide whether to use the code, alone or in conjunction with their own code(s). A common code would serve little

purpose unless it was actually used by rights holders and/or users to identify, store and exchange data. As regards the addition of other data on CDs, a request could be made to producers by interested organizations on a bilateral basis, but one had to bear in mind that ISRC had been developed and implemented over many years and that any such addition would, if agreed upon, probably necessitate a fairly long implementation period. Moreover, it would seem to require a uniform code (e.g., for works or for interested parties, such as performers' societies). Representatives of IFPI and the Mechanical Copyright Protection Society Limited (MCPS) added that the process leading to the creation of a musical work was often distinct from the recording session itself. Therefore, it would seem that it would not be feasible to instruct producers to encode in all cases a work number because it would be difficult to insert such number in time for insertion in the manufacturing process. At the level of this working group, the focus should thus be on achieving consensus on such uniform numbering systems, leaving other matters up to participants.

### *Identification of Musical Works*

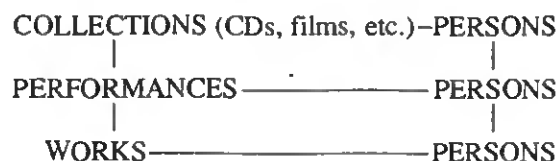
12. Participants pointed out that a number of identification systems for musical works were currently in use, including the above-mentioned World List. However, at this point in time, there was no agreement among the interested parties on a single number, although all participants who took the floor believed that agreeing upon such a standard number would be a step in the right direction.

13. Two participants expressed the view that WIPO could play a useful role, in its neutral capacity, and help develop a uniform matrix, or numbering system for musical works. It was also suggested that WIPO could administer or supervise a data base of works together with a reference to the right holder therein. A representative of the International Bureau indicated that this would represent a lot of work and would need to be further considered by participants before a request to study this possibility within WIPO was made.

### *Identification of Interested Parties*

14. Many participants stressed the important role of the CAE list, administered by SUIISA on behalf of CISAC societies. The list was used by many such societies; some collective administration organizations, such as MCPS, had expanded it in-house to cover also other interested parties, including performers. The extension of this list and its potential use as a common denominator were discussed.

15. A participant made the following diagram to illustrate this point:



16. He explained, first, that musical works could be identified, as sheet music, by the above-mentioned ISMN, but not all interested parties had an interest in applying this system—a more general code for musical works could later be agreed upon, as discussed above. Second, while fixed performances could be identified using the ISRC, at this juncture, there was no system to identify live performances. However, as had been shown by the previous discussion, the ISRC alone was insufficient, notably for societies administering the rights of composers and publishers. As regards “collections,” which interested chiefly producers, they were identified by bar codes, the Source Identification Code (SID) and other similar systems. What was missing was a unifying link, which, in his view, was the fact that in all cases there were “interested parties,” i.e., persons behind the works, performances or collections. Hence, as was pointed out by a representative of the International Bureau, if a common system to identify those persons could be established, it could be the linchpin between data bases administered by each interested party; it would also simplify exchange of data, notably by reducing the transmission or erroneous data. Accuracy would be optimized if only one interested party had the responsibility for data entry (e.g., data on a composer could only be entered by the society of his country). The representative of IFPI added that, while the ISRC was primarily designed for the administration of rights, most collective administration organizations currently used parallel systems, mostly based on “products,” not on recordings (e.g., catalog numbers, label and bar codes, etc.), because the ISRC was not (yet) used by all producers.

17. It was suggested that WIPO would be a good forum to establish such a list, in cooperation with SUIISA, which already administered the CAE list—containing almost two million entries. The moderator stated that this could be considered, but that more information on the exact role of WIPO and its financial and administrative implications was necessary. A participant suggested convening a meeting to discuss those questions in June 1994, at the SUIISA office in Zurich. Other participants agreed. The representative of the International Bureau added that this request would be submitted to the Director General.



*Norm-Setting Activities*

18. A representative of the International Bureau explained current norm-setting activities, notably the work to be undertaken with respect to Guiding Principles on the Application of Copyright and Neighboring Rights to Electronic Storage, Transmission and Reproduction of Works, Recordings and Broadcasts.

19. Many participants stated that they would like the opportunity to make known their views on possible subjects to be dealt with in that context. The moderator invited them to do so in writing as soon as possible.

*Future Action*

20. A participant expressed the view that WIPO should play an active role, notably to ensure that any

future numbering system was fair—this would include easy access to, and a guarantee of the integrity of, the necessary data—and could thus be used by all categories of rights holders and by users.

21. To be able to make concrete proposals to the second plenary meeting (Consultation Meeting) to be held towards the end of 1994, participants felt that a second meeting of this working group was necessary. It was suggested to hold this meeting immediately after the meeting on the possible list of interested parties mentioned in paragraph 16. Participants agreed, subject to the approval of the Director General.

22. The moderator thanked the participants, and IFPI for hosting the meeting.

## **Working Group on the Establishment of a Voluntary International Numbering System for Computer Programs**

(Geneva, April 25, 1994)

1. The meeting was held at WIPO's headquarters. The following non-governmental organizations were represented: Agency for the Protection of Programs (APP), Business Software Alliance (BSA), International Confederation of Societies of Authors and Composers (CISAC), Software Publishers Association (SPA).<sup>1</sup> The European Association of Manufacturers of Business Machines and Information Technology Industry (EUROBIT) made written comments. The representative of the International Bureau acted as moderator.

*Background to the Meeting*

2. The purpose of the meeting was to discuss in depth the possible establishment of a voluntary international numbering system for computer programs. A preliminary discussion had taken place at the Consultation Meeting on the Establishment of a Voluntary International Numbering System for Certain Categories of Literary and Artistic Works and for Phonograms held in Geneva on February 14 and 15, 1994, at which this and three other working groups had been created.

3. The moderator summarized the background to the meeting and the discussions at the above-mentioned Consultation Meeting (notably paragraphs 17 and 18 of the note published in the April 1994 issue of *Copyright*,<sup>2</sup> an advance copy of which was distributed to the participants).

### *The Question of the Need for a Voluntary International Numbering System for Computer Programs*

4. A representative of APP stated that a uniform numbering system would be useful in two main areas. First, it would simplify licensing of modules which a programmer could use to create a new program. In his view, nowadays most programs that were created were in fact composed of many pre-existing elements. It was not always easy for a creator to find information on such elements, including the right holder or its representative. The problem was compounded by the fact that users, who now had powerful programming tools at their disposal, could become creators of new programs. The numbering system proposed by APP (see docu-

<sup>1</sup> A list of the participants may be obtained on request from the International Bureau.

<sup>2</sup> See *Copyright*, 1994, pp. 108 to 112.

ment INS/CM/94/1, paragraphs 34 to 36) allowed the right holder to indicate either that a particular program and/or modules thereof could not be reused or that some modules could be. Licensing could optionally be added. However, the basic proposal itself did not require that any information on licensing conditions be given, as the main thrust was the identification. As a second benefit, a uniform numbering system would help in the fight against piracy as it would be easier to identify the origin of pirated modules. It would notably facilitate the work of experts whose role was crucial in litigation. Additionally, since numbering was often accompanied by registration, this made the identification of right holders much easier in case of doubt. This could in fact avoid cases of piracy due to unavailability of information concerning the person to contact.

5. Representatives of BSA and SPA felt that there was no need or use for such a system. They stated that proprietary means for identifying modules of programs and entire programs, such as copyright "screens" and embedded copyright notices, existed and were adequate for all purposes indicated in the previous paragraph, and there was thus no need for a system of numbers assigned by a third party such as the one proposed by APP. The availability of licenses to transfer individual modules to third party software was the exception rather than the rule and was readily facilitated through the advertising of programming languages and developers kits.

6. A representative of APP felt that, as regards notably object-oriented programming, which was a growing trend in the industry, it was necessary to use preexisting modules, and precise identification was very helpful in that regard. Identification did not mean that licensing would be easier. On the contrary, with a good identification system at the international level, it could be said that those using well-identified modules (the right holders in which could just as easily be identified) are in bad faith if they failed to comply with licensing conditions and/or used such modules without authorization.

7. Representatives of BSA and SPA said that licensing conditions, in cases where they were useful (i.e., when a particular module could be reused), could easily be indicated on the packaging and/or as the program was executed, together with copyright notices. However, permission to reuse preexisting modules was the exception, rather than the norm, and adequate commercial means existed to advertise the availability of modules for reuse in the cases where that was the wish of the right holder. A large software publisher selling a programming language program, with programming tools, could easily identify the conditions under which particular modules could be used to make a new program, and then

enforce its rights if they were infringed. Basically, it had to remain, in all cases, the right owner's own decision. No system of collective administration of rights applied to computer programs at present, and it was very unlikely that such a system would ever see the light of day. While identification could, perhaps, be somewhat useful for "shareware," it was not needed for mainstream products. Another problem was that, even devoid of legal effect, a system could become *de facto* mandatory, if recognized by courts as having some evidentiary value. Finally, concerning use of material distributed through electronic networks (e.g., the Internet), a uniform numbering system would be useless without proper monitoring, and it was doubtful whether such monitoring could technically or legally be done. Protection of software distributed through electronic networks would likely occur through encryption that prevents unauthorized access, rather than a monitoring system.

8. Answering a question from the moderator, the representatives of BSA and SPA stated that the same reasoning applied to interoperability. For example, the thrust of the Directive on the Legal Protection of Computer Programs, adopted by the European Community in 1991, was to ensure disclosure of information concerning interoperability (interfaces, etc.); where a right holder chose to facilitate interoperability through supplying a ready-made code rather than other types of information, access to such modules was already readily and widely facilitated through the use of developers kits.

#### *The Question of the Need for a Voluntary International Numbering System in the Field of Multimedia*

9. All participants agreed that a system to identify works, or parts thereof, other than software which were digitized and used in the process of creating multimedia works, could be useful. Representatives of BSA and SPA specifically stated, however, that no numbering system was required for multimedia works as a whole or for software elements contained in multimedia works. Identification of non-software works would ensure that proper authorizations could be secured and, hence, that right holders could be adequately compensated. A numbering system would also be an essential ingredient if a clearing house or other similar mechanism were set up to facilitate the creation of multimedia products.

10. A representative of APP stated that there was no fundamental difference between computer programs and multimedia programs as far as creation was concerned. In both cases, few works were created from scratch (*ex nihilo*), as authors reused existing

material. The need to identify that material was thus the same for both.

11. The representatives of BSA and SPA disagreed. Licensing of proprietary software to third parties to integrate into new programs was the commercial exception and there was no more justification to use software without consent in the multimedia context rather than in the software context. There was nothing sufficiently different in the way software was created or licensed for use in a multimedia work compared to the way that software was created or licensed for use in a new software work that would change the fact that there was no commercial or legal need for a third party numbering system to facilitate that process. Programming languages and developers kits, coupled with proprietary copyright "screens" and embedded copyright notices were adequate in the multimedia field as well.

12. The meeting agreed that further work on the identification of works other than software included in multimedia works would be useful. This should be done in harmony with what other working groups were doing or possibly in a new multimedia group, following discussions in the three other working groups.

#### *Possible International Deposit System or Network for Computer Programs*

13. A representative of APP stated that deposit of computer programs was useful, as was demonstrated, *inter alia*, by the growing success of private and public deposit/escrow systems around the world. Deposit could evidence the date of creation of a program, which was crucial in the field of copyright (to prove who was the first creator), and facilitate the fight against piracy.

14. The representatives of BSA and SPA opposed any new or mandatory system of deposit. However, they stated that harmonizing existing systems could, in certain cases, be useful. This would be the case, for example, if a single voluntary deposit (with an agency known to, and perhaps even operated by, right owners) was sufficient to provide basic information on a product worldwide, thereby avoiding

any need to deposit other copies of the program in other countries. A paramount concern was that the deposited software should be disclosed only on conditions approved by the right holder.

15. The group felt that further work could usefully be done in this area, and that concrete proposals could be examined at a later stage.

#### *Possible International Identification of "Interested Parties" in the Field of Computer Programs and/or Multimedia*

16. The moderator explained that a proposal to create a uniform numbering system for "interested parties" (authors, publishers, etc.) had been very well received in the working group on musical works and phonograms, which had met on April 20, 1994, in London. The issue was to ensure that an interested party could be identified worldwide and that, if the person (legal or natural) so wished, information on the person(s) to contact be made available upon request at designated information centers operating under a common network.

17. The participants felt that the idea had merit and deserved further consideration. They were of the view that such a system, if it were well known and frequently used, could become a useful source of information and facilitate contacts among the various "players," whether creators, distributors, users, etc.

#### *Future Action*

18. The participants agreed on the following: The role of WIPO should be to ensure that work on harmonizing deposit/escrow procedures and on an identification system of interested parties continue. WIPO's expertise in the field of industrial property registers would be very useful in that regard. As regards the identification of computer programs, a report that no agreement could be found in the working group would be submitted to the second (plenary) consultation meeting, to be held towards the end of 1994.

19. After the usual statements of thanks, the moderator declared the meeting closed.

## WIPO Arbitration Center

### Group of Experts

(Geneva, April 12 and 13, and May 26 and 27, 1994)

On April 12 and 13 and again on May 26 and 27, 1994, a Group of Experts met at WIPO in order to review and revise the draft WIPO Arbitration, Expedited Arbitration and Mediation Rules, as well as the draft model contract clauses for referring disputes to the WIPO Arbitration Center.

The Group of Experts comprised the following four persons: Dr. Marc Blessing, President, Swiss Arbitration Association (ASA); Mr. Gerold Herrmann, Secretary, United Nations Commission on International Trade Law (UNCITRAL), Vienna; Mr. Jan Paulsson, Vice-President, London Court of International Arbitration (LCIA); Professor Albert Jan Van Den Berg, Vice-President, Netherlands Arbitration Institute (NAI).

The discussions of the Group of Experts were based on drafts of the WIPO Arbitration, Expedited Arbitration and Mediation Rules (documents ARB/DR/1, 2 and 3) which had been established in October 1993 on the basis of the last meeting of the Working Group of Non-governmental Organizations on Arbitration and Other Extra-Judicial Mechanisms for the Resolution of Intellectual Property Disputes Between Private Parties, held in June 1993. Those drafts had been circulated to non-governmental organizations, enterprises and practitioners in the areas of arbitration or intellectual property for observations. The Group of Experts reviewed the drafts on the basis of the observations that had been received from those parties, as well as on the basis of rules of other arbitration institutions and developments in international commercial arbitration.

Following the second of the meetings of the Group of Experts, held on May 26 and 27, revised drafts of the WIPO Arbitration and Expedited Arbitration Rules were established (documents ARB/DR/2 Rev. and 3 Rev.). Those revised drafts were circulated in July 1994 to non-governmental organizations, enterprises and individuals interested in the areas of intellectual property or arbitration for final observations.

In addition to the revision of the draft rules, revised draft model contract clauses for WIPO arbitration and expedited arbitration (document ARB/DR/4) were established following the second meeting of the Group of Experts. The revised draft model contract clauses were also circulated in July 1994 to the same interested parties for observations.

A final meeting of the Group of Experts will be convened at WIPO in Geneva in August 1994 to finalize the draft WIPO Arbitration and Expedited Arbitration Rules and the draft model contract clauses, taking into account any observations received from interested parties. At the same time, the Group of Experts will finalize the draft WIPO Mediation Rules, and the associated draft model contract clauses.

The drafts of the rules and contract clauses, thus finalized, will be submitted to the WIPO Arbitration Council for its advice in September 1994. Thereafter, it is expected that the rules will enter into force in October 1994, when it is expected that the WIPO Arbitration Center will commence operations.

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

### Africa

#### Training Courses, Seminars and Meetings

*Organization of African Unity (OAU).* In May 1994, a WIPO official visited Addis Ababa and held discussions with the Secretary General and other OAU officials concerning the forthcoming visit of the Director General to Tunis to attend the 60th ordinary session of the Council of Ministers of the OAU in June 1994.

In June 1994, the Director General, who was accompanied by three other WIPO officials, addressed the 60th ordinary session of the Council of Ministers of the OAU, which was chaired by the Secretary General of the OAU and by the Minister for Foreign Affairs and Cooperation of the Congo and was held in Tunis. The Director General's address is reproduced hereafter:

"It is a great honor for the World Intellectual Property Organization to be heard by this august assembly.

I am truly grateful to the honorable Secretary General, Mr. Salim, for having invited me to address the Council of Ministers of the Organization of African Unity. The relations between the OAU and WIPO are old, friendly and tested relations. They are almost 20 years old if we count their beginning from the date of the conclusion of a cooperation agreement which formalized our relations.

But it is useful, I believe, if from time to time you give an occasion to the head of the Secretariat of WIPO to address directly and collectively the assembly at ministerial level. It seems to be useful to report to you, the Ministers, and to bring you up to date on a matter whose importance in your countries' international economic and cultural relations has rapidly grown in the recent past.

One could almost say that intellectual property has become a very fashionable subject which has received much public attention because of the rapid development of the activities of WIPO and the role that intellectual property—the so-called TRIPS—has played in the Uruguay Round of GATT.

This address, which is scheduled to last less than 10 minutes, will emphasize and mainly dwell

upon the role of intellectual property in Africa, and WIPO's relations with the countries of Africa and their most important organization, the OAU.

But first, let me say a few words on WIPO. WIPO was established in 1970 and became a specialized agency in the United Nations system of organizations in 1974. Its origins, however, go back to 1883 and 1886 when the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works, respectively, were adopted. Both treaties provided for the establishment of a secretariat. The two secretariats were united in 1893 and evolved over the years to eventually become WIPO.

Today, 147 States are members of WIPO. Forty-two of them are African States.

The objective of WIPO is to promote the protection of intellectual property throughout the world through cooperation among States.

This cooperation is based on multilateral treaties. These treaties establish certain standards of protection. For example, the Berne Convention on copyright says that copyright protection of a work must last during the life of the author of the work and 50 years after the author's death. They also provide that each country party to the treaty must protect the intellectual property of nationals of foreign countries (provided they are party to the same treaty) and that such protection must be of the same nature and extent as the country provides for its own nationals.

There are a dozen multilateral treaties in the field of intellectual property that have been concluded under the auspices of WIPO. They are administered by the Secretariat of WIPO in Geneva. I already mentioned the 111-year old Paris Convention and the 108-year old Berne Convention which are the general treaties on industrial property and copyright, respectively. Others regulate certain details or establish international so-called registration systems. One of them, the Patent Cooperation Treaty, makes it possible to file one, so-called international, application for patents, and that single application has the same effect as a national application in each of the member States. Similar systems exist for the

international registration of trademarks and the international deposit of industrial designs. These systems are administered by WIPO. The international registrations and deposits must be effected with WIPO's Secretariat in Geneva.

The some dozen treaties require updating. This is done by diplomatic revision conferences convened by WIPO. But updating existing treaties is not always the most practical method of solving new problems. It is sometimes more practical to conclude new treaties. At the present time, five new treaties are under preparation by governmental committees of experts serviced by the Secretariat of WIPO.

Treaty-making is one of the two main activities of WIPO. The other one is cooperation with developing countries. I mention the latter in the second place not as if it were less important but merely because it is more recent. Treaty-making started more than a century ago. Development cooperation started 30 years ago.

Development cooperation is, financially, the more important activity. The amount spent from WIPO's regular budget for development cooperation equals some 60% of the contributions that member States pay.

In the Secretariat of WIPO, there are five special units that deal exclusively with development cooperation. Four deal with industrial property, one deals with copyright. The four dealing with industrial property deal with the African, the Arab, the Asian and the Latin American countries, respectively. Activities in Arab countries in Africa or Asia are usually within the jurisdiction of the Arab unit.

The Secretariat of WIPO consists of some 450 staff, all but one located in Geneva. The one outside Geneva is located in the United Nations in New York. The 450 staff come from more than 50 countries. One of the two Deputy Director General posts is reserved for a national of a developing country. For filling that post, Africa, Asia and Latin America follow a system of rotation. At the present moment, the post is vacant, and it is Africa's turn. I hope that in the weeks to come the vacancy will be filled. As far as the regional bureaux directors are concerned, the incumbent directors are, for the African Bureau, Mr. Ibrahima Thiam from Senegal, and, for the Arab Bureau, Mr. Kamil Idris from Sudan. We have two more high officials with the rank of director from Africa: Mr. James Quashie-Idun from Ghana and Mr. Khamis Suedi from the United Republic of Tanzania.

It is perhaps somewhat unusual to mention individuals in a speech like this speech. But there is certainly no more important occasion for paying tribute to my African colleagues, participating in the direction of the Secretariat, than a

speech in the OAU. I pay tribute to the excellence of their work. They are absolutely indispensable to WIPO in general, and myself in particular, to understand the wishes and needs of our African member States and for carrying out our program in Africa.

This leads me to speak about intellectual property in Africa.

May I, first of all, say—and I do it with particular pleasure and satisfaction—that the African continent as a whole is a great respector and promoter of the rights and protection of intellectual creativity, both of the domestic and the foreign creator.

It is therefore particularly rewarding for WIPO to cooperate with the member States of the Organization of African Unity and with the Secretariat of that Organization. The Governments of those States recognize the contribution to society of the intellectual creator, know the value of his or her creations and desire to give them effective protection. Without exception, such is the official policy of the Governments of African countries which WIPO has the privilege of working with. It renders tasks much easier and, to that extent, leads to more immediate and tangible results.

Not only does WIPO work closely with all the 42 African countries members of WIPO. We also have relations, often just as close, with the other 11 African countries that are not yet members of WIPO.

The main development cooperation activities conducted by WIPO for the benefit of all African countries are:

- first, training of government officials and members of the private sector, in groups or individually, on the job or overseas, in general or specialized subjects;

- second, assistance in the drafting of new intellectual property laws or the revision of existing laws;

- third, organization of seminars to provide Africans with occasions for an exchange of information and experiences;

- fourth, promotion of domestic creative activities and the transfer of suitable foreign technology on suitable terms;

- fifth, advice on modern management methods for industrial property offices and copyright collective administration societies;

- sixth, provision of industrial property information in the form of compact discs, better known as CD-ROMs, as well as computer software and equipment.

Each and every member State of the Organization of African Unity has benefited from the activities that I have just outlined. In the majority of cases, the counterpart organizations with which WIPO cooperates are part of the Ministry of

Trade and Industry, where patents and trademarks are concerned, and the Ministry of Culture, where copyright is concerned. Today is, thus, a fitting occasion for me to say how their participation has been, in most instances and over the years, enthusiastic, at once open-minded and open-hearted.

As for one of the newest members of the OAU, Eritrea, WIPO is already in communication with the Government, and we hope in the very near future to send the first WIPO mission to Asmara to discuss future cooperation.

The same is true for South Africa which is, I was pleased to learn, the newest member of the OAU.

It goes without saying that WIPO's cooperation with African countries is not predicated upon membership of the Organization or adherence to one or more of the treaties administered by WIPO. Notwithstanding this, I respectfully suggest to the Honorable Ministers of the few countries which are not members of WIPO to consider recommending to their respective Governments membership of WIPO and adhesion to the treaties administered by WIPO.

In its cooperation with Africa, WIPO gives equal weight to its relations with the pertinent African intergovernmental organizations.

In the world intellectual property community, two intergovernmental organizations stand out, not only for the excellent work they do, but also for being outstanding examples of how cooperation between governments of countries can work to further their common goals of providing an efficient, relatively inexpensive way of protecting inventions and trademarks.

I refer to the African Intellectual Property Organization, usually known by its French acronym 'OAPI,' based in Yaoundé, which groups 14 African countries in a regional system for the granting of regional patents and the regional registration of trademarks. The member States of OAPI are: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea, Mali, Mauritania, Niger, Senegal and Togo.

And I refer to the African Regional Industrial Property Organization, commonly known by its English acronym 'ARIPO,' based in Harare, which groups another 14 African countries in a regional system for granting regional patents for inventions and that will soon also provide for the regional registration of trademarks. The member States of ARIPO are: Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Sierra Leone, Somalia, Sudan, Swaziland, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

Those two Organizations embody the collective vision of 28 African countries, a vision which was concretized years before similar intergovern-

mental institutions were established elsewhere in the world. With both of them, WIPO has been intimately bound since their foundation. Their development over time into their present robust status with bright prospects for the future is worthy of admiration and congratulations.

I should like to assure the member States of OAPI and ARIPO that WIPO's cooperation will remain unflagging.

WIPO cooperates also with the United Nations Economic Commission for Africa (ECA), the African Regional Centre for Technology (ARCT), the Economic Community of the Great Lakes Countries (CEPGL) and the Southern African Development Community (SADC).

Furthermore, WIPO looks forward to establishing fruitful contacts with the newly-created African Economic Community. Earlier, WIPO had given its comments, during the preparatory phase, on the then draft treaty as well as the draft Protocols on Science and Technology and on Industry.

Foremost is WIPO's cooperation with the Organization of African Unity which is enshrined in a formal cooperation agreement signed on May 24, 1977. Since then, exchanges between the two Organizations have become gratifyingly close, inspired in a large measure by the personal interest which the distinguished and dynamic current Secretary General has demonstrated on many occasions. It is no exaggeration to say that it is entirely due to him that WIPO has had the signal honor of awarding its Gold Medal to outstanding African inventors in the august presence of African Heads of State and Government during the OAU Summits of 1991 and 1993.

Mr. Secretary General, this recognition of WIPO's work in Africa is most precious, and I take this occasion to express, in the name of WIPO, our profound gratitude. Naturally, WIPO will remain at the constant disposal of the Organization of African Unity and of you, Sir, in furthering the excellent relations which exist.

Standing as we do on the threshold of a new millenium, at a time when intellectual property issues are assuming ever-increasing importance in national development strategy and in world trade, I take this opportunity to renew and reaffirm WIPO's commitment to cooperating with African States and with their national, subregional and regional organizations in devising appropriate laws, structures and expertise for the optimal use of intellectual property for the common good of the creators, the economy and society as a whole."

On the occasion of his presence in Tunis, the Director General held talks with Mr. Salim A. Salim, Secretary General of the OAU, on intellectual property matters of common interest.



### Assistance With Training, Legislation and Modernization of Administration

*Equatorial Guinea.* In April 1994, the International Bureau prepared and sent to the government authorities, at their request, a draft copyright law.

In May 1994, two WIPO officials held discussions, in Malabo, with government officials and the United Nations Development Programme (UNDP) Resident Representative on the strengthening of cooperation between Equatorial Guinea and WIPO, in particular in the field of intellectual property legislation and institution-building.

*Gambia.* In May 1994, a government official had discussions with WIPO officials in Geneva on the preparation of the copyright and neighboring rights law and the organization of a meeting on that legislation, which is expected to be adopted in September 1994.

*Ghana.* In May 1994, a government official had discussions with WIPO officials in Geneva on the organization, in November 1994, of a national seminar for judges as well as the installation of the COSIS (Copyright Societies Information System) software at the Copyright Office.

*Guinea.* In May 1994, a government official had discussions with WIPO officials in Geneva on the future training of officials from the Copyright Office of Guinea by WIPO.

*Kenya.* In May 1994, a government official had discussions with WIPO officials in Geneva on administrative matters concerning the WIPO Regional Seminar on Copyright and Neighboring Rights for African Countries to be held in Nairobi in July 1994.

*Madagascar.* In April 1994, a government official was given special training in the collective administration of copyright in Zurich by a WIPO consultant from Switzerland. The government official then visited WIPO where he had discussions with

WIPO officials on future cooperation activities to be undertaken in Madagascar.

*Mali.* In May 1994, a government official had discussions with WIPO officials in Geneva concerning the future training of officials from the Copyright Office of Mali by WIPO.

*Niger.* In April 1994, a government official was given special training in the collective administration of copyright in Zurich by a WIPO consultant from Switzerland. The government official then visited WIPO where he had discussions with WIPO officials on future cooperation activities to be undertaken in Niger.

*Nigeria.* In May 1994, a government official had discussions with WIPO officials in Geneva on future cooperation activities to be undertaken in Nigeria for the development of the existing copyright collective administration system, as well as possible future seminars, and WIPO's assistance in the establishment of a proposed Copyright Institute.

*Senegal.* In May 1994, a government official had discussions with WIPO officials in Geneva on the possible organization of a national seminar for judges in 1995.

*Sierra Leone.* In May 1994, a government official had discussions with WIPO officials in Geneva on the drafting of a new national copyright law and Sierra Leone's possible accession to the Berne Convention.

*Togo.* In May 1994, a government official had discussions with WIPO officials in Geneva on the development of copyright activities in Togo and the organization in Lomé, later in 1994, of a national seminar on copyright and neighboring rights.

*African Intellectual Property Organization (OAPI).* In April 1994, a WIPO official attended the 34th session of the OAPI Board held in Abidjan. The OAPI Board highlighted, *inter alia*, the cooperation between the two Organizations.

## Arab Countries

### Training Courses, Seminars and Meetings

*WIPO Arab Regional Workshop on Intellectual Property Law Teaching (Egypt).* On April 26 and 27, 1994, WIPO organized that Workshop in Cairo, in cooperation with the Government of Egypt. Eleven

government officials and university professors from Jordan, Kuwait, Lebanon, Sudan, Syria, Tunisia and the United Arab Emirates attended the Workshop, as well as some 70 local participants from government, university and legal circles. Presentations were made by three WIPO consultants from Egypt, the United States of America and a WIPO official.



### Assistance With Training, Legislation and Modernization of Administration

*Bahrain.* In May 1994, two WIPO officials undertook a mission to Bahrain and discussed with government officials Bahrain's possible accession to the Berne Convention as well as various matters related to the promotion of copyright in the country.

*United Arab Emirates.* In May 1994, two WIPO officials undertook a mission to Abu Dhabi and discussed with government officials questions related to the possible revision of the national legislation on copyright, the possible accession of the United Arab Emirates to the Berne Convention and future cooperation activities to be undertaken in the United Arab Emirates.

## Asia and the Pacific

### Assistance With Training, Legislation and Modernization of Administration

*Bhutan.* In April 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on the draft law on copyright and neighboring rights, a draft decree on collective administration of copyright and neighboring rights and a draft statute for a collective administration society of copyright and neighboring rights.

*Democratic People's Republic of Korea.* In May 1994, a government official had discussions with WIPO officials in Geneva on the country's possible accession to the Berne Convention.

Also in May 1994, the International Bureau prepared and sent to the government authorities, at their request, a note on the advantages of adhering to the Berne Convention.

*Indonesia.* In April 1994, a WIPO official held discussions with UNDP and government officials in Jakarta on the implementation of the UNDP-financed country project.

*Japan.* In April 1994, two government officials had discussions with WIPO officials in Geneva concerning activities to be undertaken under the Japanese funds-in-trust arrangement in favor of developing countries in the field of copyright and neighboring rights for the Japanese fiscal year 1994-95.

In May 1994, two government officials visited WIPO and had discussions with WIPO officials on a tentative workplan for copyright activities to be

carried out in Asia and the Pacific under a proposed funds-in-trust arrangement, for 1994-95, to be concluded between the Government of Japan and WIPO.

*Malaysia.* In April 1994, Dato Haji Abu Hassan Omar, Minister of Domestic Trade and Consumer Affairs, accompanied by a delegation of four government officials and the President of the Malaysian Intellectual Property Association, had discussions with the Director General and other WIPO officials in Geneva on the strengthening of cooperation between Malaysia and WIPO. They reviewed the ongoing UNDP-financed country project for the strengthening of the industrial property system, Malaysia's possible accession to WIPO-administered treaties, the Government's plan to establish an intellectual property training institute, WIPO's forthcoming assistance in modernizing the industrial design legislation and cooperation with the Malaysian Invention and Design Society, the Malaysian Intellectual Property Association and other organizations concerned with the promotion of the protection of intellectual property rights in the country.

*Mongolia.* In April 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on the recently adopted Copyright Law.

In May 1994, a government official visited WIPO and discussed with WIPO officials in Geneva the organization of the first WIPO Seminar on Copyright and Neighboring Rights to be held in Ulan Bator in August 1994.

## Latin America and the Caribbean

### Training Courses, Seminars and Meetings

*Jamaica.* In April 1994, a WIPO consultant from Switzerland presented papers at a National Seminar

on the Collective Administration of Copyright organized by the Office of the Prime Minister in Kingston. It was attended by some 30 local participants from government departments and from music, broadcasting and publishing circles.

*Trinidad and Tobago.* In April 1994, a WIPO consultant from Switzerland presented several papers at a National Seminar on the Collective Administration of Copyright organized by the Department of the Registrar General in Port of Spain. It was attended by about 30 participants from government departments and from music, broadcasting and publishing circles.

*Latin American Economic System (SELA).* In April 1994, a WIPO official participated as a speaker in the fourth meeting of the Latin American and Caribbean Forum on Intellectual Property Policies convened by the Permanent Secretariat of SELA in Caracas. He made two presentations on recent trends and changes in the protection of industrial property rights at the regional and international levels and on possible areas of regional cooperation on patent documentation and technological development. The meeting was attended by 31 government officials from 21 countries of Latin America and the Caribbean. The participants in the meeting expressed the wish that cooperation between their countries and WIPO and between WIPO and SELA be pursued and strengthened.

#### **Assistance With Training, Legislation and Modernization of Administration**

*Colombia.* In April 1994, a government official had discussions with WIPO officials in Geneva on the organization in Colombia, in 1995, of a WIPO seminar for Colombian judges and the possible organization, also in Colombia in 1995, of a meeting on reprography in cooperation with the Regional Center

for Book Development in Latin America and the Caribbean (CERLAL) and the International Federation of Reproduction Rights Organizations (IFRRO).

*El Salvador.* In April 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on and proposals for draft implementing regulations under the Law on Intellectual Property.

*Jamaica.* In May 1994, a government official discussed with WIPO officials in Geneva future cooperation activities, including the organization of a national seminar in Jamaica in 1995.

*Paraguay.* In May 1994, at the request of the government, a WIPO official visited Asunción to discuss with government officials a possible WIPO country project for the modernization of Paraguay's intellectual property system that would be funded through a loan to the Government by the Inter-American Development Bank (IDB). The project would aim to modernize the legislation concerned, strengthen the intellectual property administration, promote the teaching of intellectual property in universities and spread the use of intellectual property by interested circles. The WIPO official also had a meeting with IDB and UNDP officials. Following that mission, WIPO sent a draft project document for consideration by the Government.

*Saint Lucia.* In May 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on the draft copyright law.

## **Development Cooperation (in General)**

### **Training Courses, Seminars and Meetings**

#### **WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights**

##### **Eleventh Session**

(Geneva, May 24 to 27, 1994)

The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights held its eleventh session in Geneva from May 24 to 27, 1994.

Fifty-eight States members of the Permanent Committee were represented at the session: Argentina, Bangladesh, Belgium, Benin, Brazil,

Burkina Faso, Central African Republic, Chad, Chile, China, Colombia, Côte d'Ivoire, Egypt, France, Gambia, Germany, Ghana, Guinea, Honduras, Hungary, India, Indonesia, Jamaica, Japan, Jordan, Kenya, Lesotho, Malawi, Mali, Mexico, Mongolia, Morocco, Niger, Nigeria, Norway, Pakistan, Paraguay, Peru, Philippines, Portugal, Saudi Arabia, Senegal, Sierra Leone, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Zaire, Zambia.

The following eight States were represented as observers: Bosnia and Herzegovina, Democratic People's Republic of Korea, Ecuador, Libya, Panama, Qatar, Republic of Korea, The Former Yugoslav Republic of Macedonia.

Observers from six intergovernmental organizations, namely: Agency for Cultural and Technical Cooperation (ACCT), Commission of the European Communities (CEC), International Labour Organization (ILO), League of Arab States (LAS), Organization of African Unity (OAU), United Nations Educational, Scientific and Cultural Organization (UNESCO), and 11 international non-governmental organizations, namely: Asociación Colombiana de Intérpretes y Productores Fonográficos (ACINPRO), European Association of Economic Interests (ARTIS GEIE), International Association for the Protection of Industrial Property (AIPPI), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Hotel Association (IHA), International League of Competition Law (LIDC), International Literary and Artistic Association (ALAI), International Union of Architects (IUA), Max Planck Institute for Foreign and International Patent, Copyright and Competition Law (MPI), also participated in the meeting.

### *Opening of the Session*

The meeting was opened by a WIPO official on behalf of the Director General of WIPO. He drew attention to the main objectives of the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights which concerned activities in the field of development of human resources, institution-building, enforcement of legislation, as well as accession to the relevant copyright and neighboring rights international conventions. He referred to the increasing number of activities undertaken since the last session of the Permanent Committee in November 1992. He noted that since that date, nine countries had adhered to the Berne Convention, bringing the number of States party to that Convention to 106.

Following a proposal of the Delegation of China, supported by the Delegations of Mexico, Nigeria, Senegal, Sweden and the United Arab Emirates, the Permanent Committee unanimously elected the following officers: Mrs. Betty Mould-Iddrisu (Ghana), Chairman, and Mrs. Teresa Perea (Spain) and Mrs. Elaine Wallace (Jamaica), Vice-Chairmen. Mr. Fernández Ballesteros (Assistant Director General) acted as Secretary.

### *Review and Evaluation of the Development Cooperation Activities in the Second Half of 1992 and in 1993, and Under the Permanent Program 1994-95*

Discussions were based on document CP/DA/XI/2, Parts I and II, which covered develop-

ment cooperation activities in 1992 (July 1 to December 31) and in 1993 (January 1 to December 31) as well as on the Permanent Program for the period 1994-95 to assist developing countries in the establishment or modernization of copyright and neighboring rights systems suited to their development goals.

Delegations of 49 countries and observers from three intergovernmental organizations and three international non-governmental organizations took the floor on this item.

All the delegations which spoke praised the high quality of the document prepared by the International Bureau and the complete information that it contained. Some delegations suggested that, for future meetings, the document be established in a manner which would reflect the implementation of cooperation activities following the structure of the relevant items of the WIPO Program and Budget as well as indicating the goals achieved during the period under review.

All the delegations which took the floor expressed their great appreciation of, and indicated their full support for, WIPO's cooperation activities concerning development of human resources, development of national and regional legislation and its enforcement, as well as institution-building.

In noting the activities envisaged in the future, a number of delegations emphasized the need for WIPO to continue and strengthen its cooperation with developing countries in the establishment of an efficient infrastructure for implementing national copyright and neighboring rights laws.

Several delegations offered to continue their cooperation in the development of human resources and to receive trainees and thus to contribute to WIPO's training program which they felt had made an important contribution in the proper understanding of copyright and neighboring rights and their role in development. The Permanent Committee expressed its appreciation of these offers.

All the delegations which referred to the program of development cooperation activities for the period 1994-95 expressed their full support for that program.

The Permanent Committee, noting with considerable appreciation the national, regional and global meetings, seminars, workshops and congresses organized or supported by WIPO during 1992 and 1993, thanked the countries and organizations that had contributed to those events and that had also received trainees during that period of activities.

Several delegations emphasized the necessity of extending development cooperation activities not only to representatives of national copyright administrations and collective administrations concerned but also to new categories of officials such as members of the judiciary (magistrates and lawyers), the enforcement agencies (police, customs), ministries of

foreign affairs, of trade or diplomatic staff involved in copyright and neighboring rights matters.

Several delegations made reference to the considerable work done by WIPO in providing assistance and advice to developing countries in the preparation and updating of their national laws, as well as in the establishment of national organizations in charge of the collective administration of copyright or strengthening of those organizations where they existed.

In the context of regional economic integration schemes, such as the Andean Pact and MERCOSUR (Common Market of the Southern Cone), some delegations expressed thanks to WIPO for its assistance granted to the developing countries concerned to facilitate the harmonization and development of their copyright and neighboring rights systems in the context of market unification.

In conclusion, the Chairman stated that the Permanent Committee had noted with satisfaction the contents of document CP/DA/XI/2 and had approved the activities of the International Bureau as indicated in Part I of the document. As far as future activities were concerned, it also noted that the Permanent Committee had expressed its support for, and satisfaction with, the contents of Part II of the document, and the Secretariat had noted, as summarized and answered by its representatives, the various statements made by the delegations about possible new aspects of activities and proposed shifts of emphasis, which would be taken into account, as far as possible, in the implementation of the program for 1994-95.

The Permanent Committee agreed with the proposal to hold a symposium during the twelfth session of the Permanent Committee to deal with questions relating to the impact of digital technology on copyright and neighboring rights.

*Symposium on the Role of the Protection of Performers and Producers of Phonograms in the Promotion of Creativity in Developing Countries.* As decided by the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights at its tenth session (in November 1992), the Permanent Committee held a Symposium on the Role of the Protection of Performers and Producers of Phonograms in the Promotion of Creativity in Developing Countries on May 25, 1994, in Geneva.

The Symposium was attended by the same 66 States, six intergovernmental organizations and 11 non-governmental organizations which attended the eleventh session of the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (see above) and,

in addition, a group of 15 students from the Graduate Institute of International Studies of Geneva.

An introductory presentation was made by a WIPO official on the work of WIPO on a possible instrument for the protection of rights of performers and producers of phonograms, and was followed by a lecture given by a WIPO consultant from IFPI, Mr. Denis de Freitas, on the role of the protection of performers and producers of phonograms in the promotion of creativity in developing countries.

A discussion followed, led by a panel consisting of a WIPO consultant from Sweden and a WIPO consultant from Burkina Faso. In the discussion, delegations of 10 States, an observer from one inter-governmental organization and an observer from a non-governmental organization made statements.

During the discussion, some participants from Africa stressed the importance of the protection of performers in their countries, in particular as regards expressions of folklore, which were often not or no longer protected under copyright proper. It was also stressed that musical works had in many cases led to the rapid growth of a domestic music industry to the benefit of composers, performers and producers. Some participants requested that WIPO organize a symposium on the protection of expressions of folklore, including performers' rights and the collective administration of rights.

*WIPO Academy-Session for Latin America and Caribbean Countries.* From May 9 to 20, 1994, WIPO organized a session of the WIPO Academy specially designed for Latin American and Caribbean countries, in Geneva. The aim of the program was to inform the participants of the main elements and current issues relating to intellectual property, present those elements and issues in such a way as to highlight the policy considerations behind them and thereby to enable the participants, after their return to their respective countries, to strengthen their role in the formulation of government policies on intellectual property questions, particularly the impact of those questions on cultural, social, technological and economic development. Eighteen government officials from Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela attended the session. The coordinator of the session was Professor Alberto Bercovitz, from Spain, and presentations were made by 11 WIPO consultants from Argentina, Germany, Spain, Switzerland and Venezuela, as well as by WIPO officials.

The 18 government officials used the occasion of their presence in Geneva to have discussions with numerous WIPO officials on various aspects of cooperation between their countries and WIPO.

### **Assistance With Training, Legislation and Modernization of Administration**

*United Nations Development Fund (UNDP).* In April 1994, Mr. James Gustave Speth, the UNDP Administrator, and another UNDP official visited WIPO and had discussions with the Director General on cooperation between WIPO and UNDP, in particular UNDP funding for regional projects.

*Organization of the Islamic Conference (OIC).* In May 1994, a WIPO official attended the United Nations/OIC General Meeting in Geneva which

discussed cooperation between the United Nations and its system of organizations and the OIC.

*Islamic Educational, Scientific and Cultural Organization (ISESCO).* In May 1994, a WIPO official held discussions with an ISESCO official in Geneva on the strengthening of cooperation between WIPO and ISESCO.

*Islamic Foundation for Science, Technology and Development (IFSTAD).* In May 1994, two IFSTAD officials held discussions in Geneva with WIPO officials on future cooperation between WIPO and IFSTAD.

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

### **Regional Activities**

*WIPO Seminar on Copyright and Neighboring Rights for Judges from Central and Eastern European Countries (Hungary).* From May 16 to 18, 1994, WIPO organized that Seminar in cooperation with the Supreme Court of Hungary in Budapest. The Seminar was attended by 25 participants from the judiciary of Bulgaria, the Czech Republic, Poland, Romania, Slovakia and Slovenia, and some 90 government officials, judges, attorneys and societies representing authors, producers, performers and publishers from Hungary. Papers were presented by three WIPO consultants from Germany, Sweden and the United States of America, experts from Hungary, Poland, Sweden and the United Kingdom and by a WIPO official. Another WIPO official also attended the Seminar.

### **National Activities**

*Belarus.* In April 1994, a WIPO official and a WIPO consultant from the Russian Federation had

discussions with government officials in Minsk on copyright issues, in particular on the draft legislation on copyright and neighboring rights and on the collective administration of rights, the organization of a national seminar on copyright and neighboring rights and the country's possible accession to the Berne Convention and other WIPO-administered treaties. The WIPO official and consultant also made a presentation of WIPO's activities in the field of copyright and neighboring rights to some 20 government officials and representatives of private circles, mainly book publishers, and discussed with government officials the advantages for Belarus of adhering to the Treaty on the International Registration of Audiovisual Works (Film Register Treaty).

*Bulgaria.* In May 1994, two WIPO officials had discussions with Members of Parliament and government officials in Sofia on the country's intellectual property system and, in particular, on piracy of audiovisual works, industrial property legislation, Bulgaria's possible adherence to further WIPO-administered treaties, and the protection of plant and animal varieties.

*Georgia.* In May 1994, the International Bureau prepared and sent to the government authorities, at their request, a draft law on copyright and neighboring rights.

*Latvia.* In April 1994, a WIPO consultant from Switzerland had discussions with government officials in Riga on certain issues connected with the existence of competing collective copyright administration societies.

*Republic of Moldova.* In April 1994, the International Bureau prepared and sent to the government authorities, at their request, comments on the draft copyright law.

In May 1994, the International Bureau prepared and sent to the government authorities, at their

request, comments on the draft copyright law.

*Slovakia.* In April 1994, Mr. Dušan Rozbora, State Secretary, Ministry of Foreign Affairs, was received by the Director General and other WIPO officials in Geneva. They discussed future cooperation between Slovakia and WIPO in the field of copyright and neighboring rights.

*Ukraine.* In April 1994, Mr. Valentin N. Lipatov, Deputy Minister for Foreign Affairs, and three other government officials had discussions with the Director General and other WIPO officials in Geneva on Ukraine's possible accession to the Berne Convention and future cooperation between Ukraine and WIPO in the field of copyright and neighboring rights.

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

### National Contacts

*Finland.* In May 1994, a WIPO official had discussions with government officials in Helsinki on WIPO's current activities in the field of copyright and neighboring rights, the Government of Finland's plans concerning a further revision of the Finnish Copyright Law and the impact of digital technology on copyright.

*Portugal.* In May 1994, two government officials discussed with WIPO officials in Geneva questions related to the organization of the Second Iberoamerican Congress on Copyright to be organized by WIPO, the Ministry of Culture of Portugal and the Inter-American Institute of Copyright (IIDA) in Lisbon in November 1994.

*Spain.* In May 1994, a WIPO official visited Madrid and had discussions with government officials on the organization, by WIPO in cooperation

with the Government of Spain, of the Iberoamerican Seminar on Public Administration and Copyright which will take place in November 1994 in Santiago de Compostela.

### United Nations

*United Nations Administrative Committee on Coordination (UN(ACC)).* In April 1994, the Director General and another WIPO official attended the meetings of the first regular ACC session for 1994, held in Geneva.

Also in April 1994, a WIPO official attended, in Geneva, the meetings on the preparations for the second regular session of ACC to be held in September 1994 in New York.

*United Nations Advisory Committee on Post Adjustment Questions (ACPAQ).* In May 1994, a WIPO official attended a meeting of ACPAQ, held in Vienna.

*Joint Interagency Meeting on Computer-Assisted Translation and Terminology (JIAMCATT).* In May 1994, a WIPO official presented a paper on copyright in the field of terminological and documentary data bases at that meeting, held in Geneva.

### Intergovernmental Organizations

*Commission of the European Communities (CEC).* In April 1994, two WIPO officials presented papers at the International Conference on Intellectual and Industrial Property "Objectives and Strategies," organized by the CEC in Athens in cooperation with the Government of Greece.

*Customs Co-operation Council (CCC).* In May 1994, a WIPO official attended, as an observer, a meeting of the Customs/Business Sub-Group on Intellectual Property Rights organized by the CCC and held in London.

*General Agreement on Tariffs and Trade (GATT).* In April 1994, two WIPO officials represented WIPO in an observer capacity at the meeting of the GATT Uruguay Round Trade Negotiations Committee at the Ministerial Level, held in Marrakesh (Morocco), which adopted the Final Act embodying the Uruguay Round of GATT, the Agreement Establishing the World Trade Organization (WTO) (Marrakesh Agreement) and four multilateral agreements. The WIPO officials presented a written statement on behalf of the Director General of WIPO, which affirmed WIPO's interest in cooperating with GATT and the proposed World Trade Organization (WTO).

### Other Organizations

*Agency for Cultural and Technical Cooperation (ACCT) (France).* In May 1994, a representative of ACCT had discussions with WIPO officials in Geneva on possible cooperation between the two Organizations in the field of copyright and neighboring rights.

*Agency for the Protection of Programs (APP).* In May 1994, the President of APP and the head of the Geneva office of APP had discussions with WIPO officials in Geneva on the establishment of a voluntary international numbering system for computer programs.

*American Arbitration Association (AAA).* In April 1994, a WIPO official attended the AAA's Annual Meetings in New York and presented WIPO's Arbitration Center to several members of the AAA.

*American Bar Association (ABA).* In May 1994, a delegation of members of the Section of International Law and Practice of the ABA visited WIPO and was briefed by WIPO officials on the Organization's activities.

*Artists Rights Foundation.* In April 1994, a WIPO official participated, as a panelist, in the International Artists Rights Symposium organized by the Foundation in Los Angeles (California, United States of America).

*Conseil francophone de la chanson (CFC).* In May 1994, three representatives of the CFC had discussions with WIPO officials in Geneva on the possible organization of a joint regional seminar for artists and composers from French-speaking countries of Africa in 1995.

*European Committee for Interoperable Systems (ECIS)/American Committee for Interoperable Systems (ACIS).* In April 1994, a WIPO official made a presentation on WIPO's current activities in the field of copyright, including the identification of works, the possible protocol to the Berne Convention for the Protection of Literary and Artistic Works and the possible instrument for the protection of the rights of performers and producers of phonograms at the Symposium on Copyright in a Digital Age jointly organized by ECIS and ACIS in Brussels.

*Finnish Copyright Society.* In May 1994, a WIPO official presented a paper on the impact of new technology on copyright at the annual spring meeting of that Society, held in Helsinki.

*Infocenter International.* In May 1994, a WIPO official presented a paper on WIPO's copyright activities to respond to the challenges of digital technology at a Seminar on the Protection of Intellectual Property Rights, organized by Infocenter International in Dubai (United Arab Emirates). The Seminar was attended by some 50 local participants.

*International Book Festival (Budapest).* In April 1994, a WIPO official made a presentation on the Berne Convention, the emerging new copyright norms and the rights and interests of publishers at a copyright seminar organized by the Hungarian Book Publishers' Association in cooperation with the Standing Committee of the Frankfurt Book Fair in the framework of that Festival, in Budapest.

*International Confederation of Societies of Authors and Composers (CISAC).* In May 1994, two WIPO officials participated in the annual session of the Legal and Legislation Committee of CISAC, held in Rio de Janeiro.

Also in May 1994, a representative of CISAC held discussions with WIPO officials in Geneva on



future cooperation activities in the field of collective administration of copyright between WIPO and CISAC.

*International Copyright Society (INTERGU)/Institut für Urheber- und Medienrecht.* In April 1994, a WIPO official participated, as a moderator, in a meeting on new digital uses of oral, artistic, cinematographic and musical works and performances protected by neighboring rights organized by INTERGU and the said Institute in Munich.

*International Federation of the Phonographic Industry (IFPI).* In May 1994, a representative of IFPI had discussions with WIPO officials in Geneva on cooperation activities undertaken in favor of Caribbean countries in the field of collective administration of copyright.

*International Publishers Association (IPA).* In May 1994, two WIPO officials participated, one as a speaker, in the Third International Copyright Symposium of IPA, held in Turin (Italy).

*International Studies Center (Barcelona, Spain).* In April 1994, 20 Spanish diplomats, trainees from that Center, visited WIPO and were briefed by WIPO officials on WIPO's activities and intellectual property in general.

*Licensing Executives Society International (LESI).* In May 1994, two WIPO officials chaired a workshop on the international protection of industrial property and participated in several other sessions of the 1994 LES International Conference, held in Beijing. The Conference was attended by some 70 local participants and some 270 foreign participants.

*Nordic Copyright Bureau (NCB).* In May 1994, a WIPO official presented a paper at the Annual General Meeting of NCB, held in Copenhagen.

*Polytechnical School of Kielce (Poland).* In April 1994, a group of 35 patent agents on a study tour organized by that School was given a presentation on WIPO's activities in general and the PCT in particular at the headquarters of WIPO.

## Miscellaneous News

### Regional News

*Andean Group.* Decision 351, establishing a common regime for copyright and neighboring rights, was adopted on December 17, 1993.

### National News

*Mongolia.* The Copyright Law entered into force on September 1, 1993.



## Calendar of Meetings

### WIPO Meetings

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

#### 1994

- September 26 to October 4 (Geneva)**      **Governing Bodies of WIPO and the Unions Administered by WIPO (Twenty-Fifth Series of Meetings)**  
Some of the Governing Bodies will meet in ordinary session, others in extraordinary session.  
*Invitations:* As members or observers (depending on the body), States members of WIPO or the Unions and, as observers, other States and certain organizations.
- October 10 to 28 (Geneva)**      **Diplomatic Conference for the Conclusion of the Trademark Law Treaty**  
The Diplomatic Conference is expected to adopt a treaty which will harmonize certain procedural and other aspects of national and regional trademark laws.  
*Invitations:* States members of the Paris Union and, as observers or with a special status, States members of WIPO not members of the Paris Union and certain organizations.
- December 5 to 9 (Geneva)**      **Committee of Experts on a Possible Protocol to the Berne Convention (Fourth Session)**  
The Committee will continue to examine the question of the preparation of a possible protocol to the Berne Convention for the Protection of Literary and Artistic Works.  
*Invitations:* States members of the Berne Union, the Commission of the European Communities and, as observers, States members of WIPO not members of the Berne Union and certain organizations.
- December 12 to 16 (Geneva)**      **Committee of Experts on a Possible Instrument for the Protection of the Rights of Performers and Producers of Phonograms (Third Session)**  
The Committee will continue to examine the question of the preparation of a possible new instrument (treaty) on the protection of the rights of performers and producers of phonograms.  
*Invitations:* States members of WIPO, the Commission of the European Communities and, as observers, certain organizations.

#### 1995

- April 5 and 6 (Melbourne, Australia)**      **Symposium on the International Protection of Geographical Indications** (organized by WIPO in cooperation with the Government of Australia)  
The Symposium will deal with the protection of geographical indications (appellations of origin and other geographical indications) both on the national and multilateral level and, in particular, with the coexistence of geographical indications and trademarks.  
*Invitations:* Governments, selected intergovernmental and non-governmental organizations and any member of the public (against payment of a registration fee).

### UPOV Meetings

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

#### 1994

- November 2 to 4 (Geneva)**      **Technical Committee**  
*Invitations:* Member States of UPOV and, as observers, certain non-member States and inter-governmental and non-governmental organizations.

November 7 and 8 (Geneva)

**Administrative and Legal Committee**

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

November 9 (a.m.) (Geneva)

**Consultative Committee (Forty-Eighth Session)**

*Invitations:* Member States of UPOV.

November 9 (p.m.) (Geneva)

**Council (Twenty-Eighth Ordinary Session)**

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

## Other Meetings

### 1994

September 18 to 22 (Washington, D.C.)

International Confederation of Societies of Authors and Composers (CISAC): Congress.

September 22 to 24 (Berlin)

International League of Competition Law (LIDC): Congress.



