

# Intergovernmental Copyright Committee

# Comité intergouvernemental du droit d'auteur

# Comité Intergubernamental de Derecho de Autor

Third Session of the  
Committee of the  
Universal Convention  
as revised in 1971

(First Part)

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## REPORT ON THE FIRST PART OF THE THIRD SESSION OF THE COMMITTEE

### Introduction

1. The Intergovernmental Committee of the Universal Copyright Convention as revised at Paris on 24 July 1971 (hereinafter called "the Committee") met in its third ordinary session at WIPO Headquarters in Geneva from 5 to 9 February 1979, under the chairmanship of Mr. André Kerever.
2. The following 17 of the 18 Member States of the Committee were represented: Australia, Brazil, Federal Republic of Germany, France, Ghana, India, Israel, Italy, Japan, Mexico, Netherlands, Senegal, Tunisia, Union of Soviet Socialist Republics, United Kingdom, United States of America, Yugoslavia.
3. The following 23 States, parties to the Universal Copyright Convention but not members of the Committee, sent observers: Andorra, Argentina, Austria, Belgium, Bulgaria, Canada, Chile, Costa Rica, Czechoslovakia, Denmark, Finland, German Democratic Republic, Holy See, Hungary, Morocco, Norway, Pakistan, Philippines, Poland, Portugal, Spain, Sweden, Switzerland.
4. The following nine States, not parties to the Universal Copyright Convention, were also represented: Angola, Ivory Coast, Libyan Arab Jamahiriya, Madagascar, Niger, Sudan, Thailand, Togo, Turkey.
5. Representatives of the Director-General of the United Nations Educational, Scientific and Cultural Organization (Unesco), of the World Intellectual Property Organization (WIPO), of the Organization of American States (OAS), of the Council of Europe, and of the Arab Educational, Cultural and Scientific Organization (ALECSO) attended the meeting of the Committee in a consultative capacity.
6. The representatives of one intergovernmental organization and of eighteen international non-governmental organizations followed the debates of the Committee as observers.

7. The list of participants is annexed to this report.

Statement by the Deputy Director-General of Unesco

8. Mr. Federico Mayor, Deputy Director-General of Unesco, addressed the Inter-governmental Copyright Committee and the Executive Committee of the Berne Union at the opening meeting on 5 February. After having thanked WIPO for its hospitality, he laid emphasis on the very special importance attached by Unesco to its constitutional mission in the copyright field and pointed out that the Organization's policy in that area was defined bearing in mind the importance assumed by that right in achieving its major objectives in the context of the right to education, the right to culture and the right to information. With this in view, Unesco placed the accent on the social significance of intellectual property and on the interdependence existing between the legitimate protection of intellectual works and their dissemination, on the one hand, and development policies in the fields of education, science, culture and information, on the other hand. The Deputy Director-General of Unesco concluded by stressing the need to permit copyright to play fully the roles falling to it within the overall context of development, that is to say, its role as a stimulator of creation, its role in the transfer of intellectual knowledge and its role in relation to the interests of the industries disseminating the works.

Opening of the session of the Committee

9. The session of the Committee was opened by its Chairman, Mr. André Kerever (France).
10. The delegation of the Union of Soviet Socialist Republics, referring to the letter that the Soviet Government had addressed to the Director-General of Unesco on 30 January 1979, took the opportunity to request that the Russian language should henceforth be one of the working languages of the Committee.
11. The request, the principle of which had been favourably received by the Committee, gave rise to an exchange of views on the legal (amendment of Rule 22 of the Committee's Rules of Procedure) and budgetary aspects which would be entailed.
12. The observer of the Libyan Arab Jamahiriya in turn raised the question of adding Arabic to the working languages mentioned in Rule 22 of the Committee's Rules of Procedure.
13. The delegation of Tunisia, while supporting the latter statement, pointed out that there still existed problems at the regional level as to the terminology to be adopted in that field. Since the introduction of Arabic as one of the working languages of the Committee was eminently desirable, it could therefore be achieved in a number of steps. As a first phase, the documents could be published in Arabic, thus facilitating the standardization of the terminology. Interpretation into and out of that language could then be envisaged as a second phase.
14. The observer from Portugal expressed his country's wish that the Portuguese language be used in the Committee simultaneously with the other languages mentioned above. He recalled that a Portuguese-speaking African country - Angola - was attending the meetings of the copyright committees for the first time and he welcomed the Angolan delegate. He observed that three Portuguese-speaking countries were now present: Angola, Brazil and Portugal.

15. Referring to the legal aspects of those proposals, the representative of the Director-General of Unesco stated that, whereas Russian and Arabic were already working languages in meetings of a governmental nature convened by Unesco, the same was not true for Portuguese, which, moreover, was not one of those used by the governing bodies of the Organization. He also referred to the budgetary difficulties that might arise from such requests if the Committee decided to follow them up immediately since the General Conference had already adopted the Organization's budget for the period 1979-1980. He concluded by drawing the Committee's attention to the fact that paragraph 1 of Rule 22 of the Rules of Procedure concerned the translation of working documents and paragraph 2 referred to the simultaneous interpretation of discussions, and therefore, when deciding on any amendments to be made to that Rule, the Committee would have to consider both paragraphs.

16. Following its deliberations on this subject, the Committee asked its Secretariat to make an estimation of the budgetary implications of the addition of Russian and Arabic as working languages of the Committee for the translation of documents, on the one hand, and for interpretation, on the other, and to report on its findings at its next meeting. In the light of the information contained in the report, the Committee would then take a final decision on the amendments to be made to Rule 22 of its Rules of Procedure.

17. The wish was also expressed that, in the meantime, the Secretariat of Unesco would provide simultaneous interpretation from and into Russian as from the next meeting of the Committee.

#### Adoption of the agenda

18. During the adoption of the provisional agenda appearing in document IGC(1971)/III/1 Rev., the Chairman of the Committee drew the Committee's attention to the fact that the earlier convocation of the present session, which was due to the necessity of co-ordinating its work with that of the Berne Union Executive Committee and to the constraints of the WIPO budgetary calendar, would not enable it to take decisions on all the items that it had decided to include in the agenda of the present session, either because some of them were still under study or because of legal considerations. That applied in particular to items 16 and 17 of the agenda, dealing respectively with the partial renewal of the Committee and the election of the Chairman and two Vice-Chairmen, since a period of two years had to elapse after the previous session of the Committee for the terms of office to be respected (Rules 17 and 43 of the Rules of Procedure). Moreover, the partial renewal of the Committee was linked with the revision of its Rules of Procedure, the principle of which had been adopted at its 1977 session.

19. The Committee therefore decided to suspend its deliberations on 9 February 1979, as planned, and to resume them at Unesco Headquarters in Paris at the end of October 1979.

20. The delegation of the United States of America, while supporting the Chairman's proposal that the Committee suspend its consideration of items 16 and 17 of the provisional agenda, expressed the opinion that a preliminary exchange of views on the amendments that would have to be made to Rules 41 to 50 of the Rules of Procedure would probably help governments to define their final positions on the subject and also assist the Secretariat in its preparatory work.

21. The delegation of Israel supported the proposal of the delegation of the United States of America, adding that the preliminary debate should deal among other things with electoral procedure within the Committee. It also suggested that the

Committee should be given access to the replies that had already reached the Director-General of Unesco in response to the letter of consultation which he had sent to States on the subject.

22. The delegation of the Federal Republic of Germany, while informing the Committee that its Government had not yet made any proposals for the amendment of the Rules of Procedure, subscribed to the request made by the delegation of Israel to the effect that the replies of States should be distributed. It also said that a preliminary exchange of views would be useful at the present stage. On the one hand, it would enable the October meeting to take the views expressed into consideration and, on the other hand, it would allow countries that had not yet replied to study the question more thoroughly.

23. The delegations of Australia and the United Kingdom and the observers from Spain and Portugal supported the statements by the delegations of the United States of America, Israel and the Federal Republic of Germany.

24. The observer from Austria, while indicating that he had no intention of intervening during the debate, nevertheless wished to hear the opinions expressed.

25. The delegations of France, Ghana, Italy, the Netherlands, Tunisia, the Union of Soviet Socialist Republics and Yugoslavia, and the observer from Morocco, felt such a preliminary exchange of views would be to no purpose since Unesco was as yet in possession of only four replies from governments, of which only two contained proposals on matters of substance.

26. The Chairman noted that a majority had pronounced in favour of postponing the discussion on the revision of the Committee's Rules of Procedure until October. He consequently declared the provisional agenda appearing in document IGC(1971)/III/1 Rev. to have been adopted, on the understanding that the items shown in Part III would not be examined until the meeting in October 1979. He further requested the Unesco Secretariat to arrange for the translation, reproduction and distribution of those replies from States concerning the revision of the Rules of Procedure that contained substantive proposals, that is to say, the replies from Israel and Switzerland.

#### PART I: ITEMS CONCERNING THE INTERGOVERNMENTAL COPYRIGHT COMMITTEE ALONE

##### Admission of an international non-governmental organization as an observer

27. At its second ordinary session, held in November/December 1977, the Committee had been informed by its Chairman of the request submitted by the International Group of Scientific, Technical and Medical Publishers (STM) with a view to recognition as a permanent observer at Committee sessions.

28. However, failing sufficient information on that organization and in the absence of a representative from it, the Committee had invited it to participate in the work of that session while deciding to re-examine its request at the present session on the basis of any relevant documentation the Secretariat would be able to provide.

29. After taking cognizance of the information contained in document IGC(1971)/III/2, the Committee decided unanimously to invite STM to send a representative to all its sessions, in accordance with Rule 7(1)(iii) of its Rules of Procedure.

30. On a suggestion by the representative of WIPO, it was further agreed that, in order to harmonize the representation of international non-governmental organizations within the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union, the Secretariat would submit to the forthcoming meetings of the two Committees a comparison of the current situation as far as both Committees were concerned.
31. As regards the case of organizations affiliated to international non-governmental organizations, a number of delegations remarked that as a general rule only the international non-governmental organizations should have consultative status with the Committee and that it was for them to arrange for the organizations affiliated to them to be represented on their delegations.
32. In view of the preceding remark, the Committee requested that precise criteria be defined for the admission of international non-governmental organizations as permanent observers with the Committee.

#### Application of the Universal Copyright Convention

1. State of accessions, ratifications and acceptances in respect of the Convention (1952 text and 1971 text)
33. The Committee noted the information contained in Documents IGC(1971)/III/3 and 3 Add.
34. The Government of El Salvador deposited with the Director-General of Unesco, on 29 December 1978, its instrument of accession to the Universal Copyright Convention as revised at Paris on 24 July 1971, that instrument also constituting accession to the 1952 Convention by virtue of Article IX(3) of the revised Convention.
35. On 4 April 1978, the Government of the Union of Soviet Socialist Republics communicated to the Director-General of Unesco a declaration under Article IX(4) of the Convention as revised in 1971, according to which that State admitted the application of the Universal Convention to works of Soviet authors. When making that declaration, the Union of Soviet Socialist Republics noted that the provisions of Article XIII of the Convention were void and contrary to the Declaration of the United Nations General Assembly on the Granting of Independence to Colonial Countries and Peoples, which proclaimed the need to put a rapid and unconditional end to colonialism in all its forms and all its manifestations.
36. The Committee was also informed that the Italian Parliament had promulgated the law ratifying the revised Universal Convention and that the relevant instrument of ratification was soon to be deposited with the Director-General of Unesco.
37. The Chairman of the Committee further observed that those members of the Intergovernmental Copyright Committee that were not also members of the Executive Committee of the Berne Union had none the less followed with great interest the discussions that had been initiated on the subject of the possible accession of the United States of America to the Berne Convention.
2. System applicable to works not protected in their country of origin
38. The Secretariat recalled that the question of the system applicable to works not protected in their country of origin had been included in the agenda of the present session at the request of the delegation of the United States of America, made at the second ordinary session of the Committee with respect to works of the American Government.

39. The question arising in a more general context was whether, in cases where the domestic legislation of a country did not protect works belonging to a certain category produced in that country but afforded full protection to works of the same type produced in all other countries parties to the Universal Convention, that Convention permitted one of the latter countries to deny protection to works of that type produced in the first-mentioned country.

40. Document IGC(1971)/III/4 reported on the contacts that had been made between the Secretariat and the Copyright Office of the United States of America with a view to carrying out a study of the question for the purposes of the Committee. As a result of bringing forward the date of the present session, however, it had not been possible for the Copyright Office to finish drafting the study in time for the present meetings. Consequently, the report would be submitted to the Committee at its next meeting in October 1979.

41. The delegation of the United States of America confirmed the information given in the document cited.

42. The Committee took note of the foregoing information.

#### Protection of translators

43. The Committee took cognizance of documents IGC(1971)/III/5 and Add.5 containing the initial special reports submitted by 21 Member States of Unesco on the action taken by them to give effect to the "Recommendation on the legal protection of translators and translations and the practical means to improve the status of translators" adopted by the General Conference of Unesco at its nineteenth session (Nairobi, October/November 1976).

44. The Committee was also informed that by Decree of 18 September 1978, the Ministry of Culture of Spain, as part of its action to implement the Recommendation, had offered for competition the Brother Luis de Leon prizes instituted in January 1956 for the promotion of translation.

45. The observer from Belgium said that Belgian domestic legislation was in compliance with the tenor of the recommendation.

46. The observer from Austria asked that a correction be made to the first line of paragraph 4 of the report his government had submitted to the Director-General of Unesco. It should read "Revision of the present Austrian legislation relating to contract law concerning copyright is under consideration...".

47. The delegation of the United States of America said that the existence in its country of tens of thousands of translators not grouped together in an organization had resulted in long delays in obtaining the necessary information. It explained that the Copyright Office had sent a questionnaire to all concerned and would not fail to forward the results of the survey to the Director-General of Unesco. The delegation further inquired whether an analysis would be made of the replies received.

48. The delegation of the Federal Republic of Germany informed the Committee that the authorities of its country were willing to re-examine the Unesco recommendation when revising the national legislation relating to contract law concerning copyright. For the time being the Parliament of the Federal Republic of Germany had shared the reservations of the Federal Government on certain points of the recommendation in particular those requesting that translators be granted certain advantages not accorded to authors of original works. Under the copyright legislation of the Federal Republic of Germany translators enjoyed the same rights as authors of original works.

49. The delegation of the Union of Soviet Socialist Republics, after having emphasized the active part played by its government in drawing up the recommendation, said that the legislation of its country afforded copyright to translators.
50. The delegation of India observed that its country had recently sent a report on the question to the Director-General of Unesco.
51. The delegation of France asked the Secretariat whether it was possible to remind the States of the advisability of submitting special reports. It also supported the idea of carrying out an analysis of those reports.
52. The observer from the International Federation of Translators (FIT) welcomed the action taken by the Secretariat of Unesco in that field. He also expressed his thanks to the governments and delegations that had demonstrated their support for translators. He regretted, however, that only a small number of States had submitted reports to Unesco and that those included very few developing countries.
53. The representative of the Director-General of Unesco noted the Committee's wish to have submitted to it at its meetings in October 1979 an analytical report on the replies received from governments as regards their implementation of the recommendation on translators. In order to meet the wish expressed by several delegations to know what the situation was in a larger number of countries, he stated that the Secretariat of the Committee would send an appropriate circular to the States parties to the Universal Convention.

Legal and technical assistance to States in developing their national copyright legislation

54. Presenting the report it had prepared on that item of the agenda (document IGC(1971)/III/6), the Secretariat thanked the experts who, as Unesco consultants, had assisted the national authorities in drafting their domestic copyright laws or in setting up national societies of authors, and the government authorities that had received Unesco trainees and contributed to their training. Continuing on the subject of training, it drew the Committee's particular attention to two new activities undertaken by the Secretariat of Unesco for that purpose: (i) the organization at Unesco Headquarters in Paris from 12 to 16 June 1978, of a group-training period for officials who were or would be responsible for copyright matters in the least advanced of the developing countries not yet parties to any of the multi-lateral copyright Conventions, and (ii) the organization of individual training courses with the Copyright Division and other units of the Secretariat whose activities were inseparable from, and complemented, those of that Division.
55. The Secretariat further observed that it also pursued other assistance activities in the copyright field but that they were not shown in the document under consideration either because they were activities conducted jointly with WIPO and therefore also of interest to the Executive Committee of the Berne Union (such as the Latin-American Working Group responsible for making suggestions for the Copyright Seminar to be held for the States of Latin America and the Caribbean in 1979, the Seminar on Copyright and Neighbouring Rights for Asian and Pacific States and Territories, the publication of the Tunis Model Law in Portuguese and the preparation of a copyright manual for developing countries), or because the activities undertaken did not concern the protection of copyright itself but the circulation of protected works (such as drawing up an inventory of the needs of developing countries for printed works and audio-visual works, the dissemination of bibliographic data to facilitate access to sources of information enabling developing countries to select the printed works and works fixed on a sound or sound-and-visual medium which they needed, as well as all the services supplied in negotiations on the use of the various elements of copyright).

56. The delegations of Israel, the Union of Soviet Socialist Republics, the United States of America, the observer from Hungary, together with the Chairman of the Committee speaking on behalf of the delegation of France, congratulated Unesco on the execution of those activities. Some of them added that they could bear witness to the systematic action undertaken by Unesco to make States increasingly aware of the role of copyright in the general context of development.
7. The delegation of the United States of America referred to its declarations made in the Berne Union Executive Committee as regards a greater degree of co-ordination in the fellowships programmes of Unesco and WIPO. However, after having heard the information communicated on the subject by the Secretariats, the delegation felt satisfied on the whole with the current situation.
58. The delegation of Israel concurred with the statement made by the United States of America.
59. The observer from Hungary offered the co-operation of the Hungarian Office for the Protection of Copyright in the Unesco fellowships programme and stated that the Hungarian Office was prepared to train one fellow as from the current year.
60. The delegation of the Union of Soviet Socialist Republics also stated that the USSR was willing to receive Unesco fellows, as had in fact been the case in 1977 already. It also informed the Committee that the Soviet Government made specialists available to States which so requested, and referred to the assistance currently being provided to Cuba. It further stressed the special importance it attached to the approach adopted by Unesco in dealing with copyright matters, by integrating them into the more general context of educational, cultural and information policies, which, it felt, responded to the needs of the developing countries.
61. The observer from the International Confederation of Societies of Authors and Composers (CISAC) joined in the congratulations addressed to Unesco on its programme of assistance to developing countries, a programme in which CISAC had always been pleased to co-operate each time its participation had been requested. It emphasized the importance its organization attached to the setting up of national infrastructures to permit the practical application of the relevant legislation and repeated its offer to collaborate with Unesco in that field.

PART II: ITEMS CONCERNING BOTH THE INTERGOVERNMENTAL COPYRIGHT COMMITTEE AND THE EXECUTIVE COMMITTEE OF THE BERNE UNION

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

62. The Committees noted the information on developments regarding the Rome Convention (document B/EC/XIV/5 - IGC(1971)/III/7). They also noted the results of the deliberations of the sixth ordinary session held in Geneva in December 1977 by the Intergovernmental Committee established under Article 32 of the Rome Convention, and were informed that a Subcommittee of that Intergovernmental Committee had met in Geneva from 29 January to 2 February 1979, to study the problems arising from the administration of rights under the Rome Convention (document B/EC/XIV/6 - IGC(1971)/III/8).
63. The observer from Belgium informed the Committees that the Belgian Parliament would shortly be deciding on the adoption of new legislation on neighbouring rights to enable Belgium to ratify the Rome Convention.



Application of the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention)

64. The Committees noted the information on developments regarding the Phonograms Convention (document B/EC/XIV/7 - IGC(1971)/III/9).

Application of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention)

65. The Committees noted the information on developments regarding the Satellites Convention (document B/EC/XIV/8 - IGC(1971)/III/10). They also noted the results of the deliberations of a Working Group that had met in Geneva in April 1978 and had prepared model provisions for the implementation of the Satellites Convention (document B/EC/XIV/9 - IGC(1971)/III/11). The model provisions in question would be considered by a committee of governmental experts which was to meet in Paris in June 1979.

66. The delegation of the Federal Republic of Germany informed the Committees that the parliamentary procedure for the adoption of a law on the subject had been completed. The legislation in question was due to be promulgated shortly, whereupon the instrument of ratification of the Satellites Convention by the Federal Republic of Germany would be deposited.

Application of the revised Paris texts of 1971 of the Berne Convention and the Universal Copyright Convention Regarding Special Provisions for Developing Countries: Working Group on the Overall Problems Posed for Developing Countries Concerning Access to Works Protected under those Conventions

67. The Committees noted the progress of work on this item of their agendas (document B/EC/XIV/10 - IGC(1971)/III/12). The Secretariats also informed the Committees that since 15 December 1978, when that document had been written, further replies to the questionnaire on the access by developing countries to protected works of foreign origin had reached them, bringing the number of replies received to date up to 19. The Committees noted that a Working Group would meet in Paris in July 1979 to examine those replies.

Problems arising from the use of electronic computers

68. The Committees noted the progress of work on this item of their agendas (document B/EC/XIV/11 - IGC(1971)/III/13), and the fact that the convening of a Working Group in Geneva to go into the various ramifications of the problems arising from the use of computers was scheduled for the end of May 1979.

Problems arising from the use of audio-visual cassettes and discs

69. The Committees had before them the report adopted by their respective Sub-committees, which had met in Paris in September 1978 to consider the problems in question (document B/EC/XIV/12 - IGC(1971)/III/14). A discussion took place on the procedure to be followed. Since that discussion concerned also the item on the agendas of both Committees relating to the transmission by cable of television programmes, it is dealt with below.

Problems arising from the transmission by cable of television programmes

70. The Committees had before them the report adopted by their respective Sub-Committees, which had met in Geneva in July 1978 to deal with the problems in question (document B/EC/XIV/13 - IGC(1971)/III/15).

71. The delegation of the Federal Republic of Germany raised the question whether the reports of the Subcommittees in July and September 1978 on the transmission by cable of television programmes and on video cassettes, respectively, should be purely and simply noted, or whether the Committees should discuss them in depth. The delegation considered it advisable, in the latter case, to postpone such a discussion until the second part of the Committees' sessions, which they planned to hold in Paris in October 1979. If the Committee decided to note the reports, the delegation had to express a reservation regarding certain points of the report on audio-visual cassettes and discs.
72. The observer from Austria said that it considered the suggestion wise, but that, if the Committees decided to note the reports of their respective Subcommittees at the current session, he would have to express reservation on certain points in the report on video cassettes.
73. The delegation of Italy pointed out that the report of the Subcommittees on audio-visual cassettes and discs had not reached its government authorities until very recently and that rather more time was required to consider it.
74. The Secretariats suggested that the discussion of the reports of the Subcommittees on video cassettes and on the transmission by cable of television programmes should be postponed until October 1979, and that in the meantime States party to the Berne Convention or to the Universal Copyright Convention should be given the opportunity to submit comments on those reports.
75. The latter suggestion was supported by the delegations of the Federal Republic of Germany, Italy, the Netherlands, the United States of America and by the observers from Austria and Spain.
76. Consequently, the Committees, each as far as it was concerned, asked their Secretariats to send Notes to the States party to the Berne Convention or to the Universal Copyright Convention, and to interested international organizations, stating that, at their current sessions, the Committees had expressed the desire for a period of reflection in order that they might study the reports of their Subcommittees on the problems arising from the use of audio-visual cassettes and discs on the one hand and on the problems arising from the transmission by cable of television programmes on the other, and asking them to submit, by a date to be specified, any comments they might wish to make on those reports, with a view to their consideration by the Committees at their October 1979 meetings.

Application of the Berne Convention and of the Universal Copyright Convention to material intended specially for the blind

77. The Committees noted the report prepared by the World Council for the Welfare of the Blind (WCWB) on the above subject. The report, which appears in document B/EC/XIV/14 - IGC(1971)/III/16, reviews the problems posed by international copyright legislation in connection with the production and distribution of publications printed in raised characters or in large print, sound recordings and radio broadcasts, for the benefit of the blind and the visually handicapped. The Committees gave the observer from the World Council for the Welfare of the Blind (WCWB) the opportunity to comment in detail on the Council's report.
78. The delegations of Brazil, France, the Federal Republic of Germany, Ghana, Israel, Italy, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, Yugoslavia and the observers from Austria and Portugal all laid stress on the importance of such problems and on the pressing need to take

whatever action was appropriate, whether legislative - if such action had not already been taken - or in the field of contracts, in order to solve those problems and facilitate the circulation of publications for the visually handicapped. Some of them expressed the view that similar studies should be undertaken on the problems encountered in the same connection by the aurally handicapped. Some of them also thanked the delegation of Brazil for having brought the matter before the Committees at their sessions in December 1977.

79. The Committees, each as far as it was concerned, asked their Secretariats to transmit the report prepared by the World Council for the Welfare of the Blind (WCWB) to the States party to the Berne Convention or to the Universal Copyright Convention, and also to interested international organizations. They were of the opinion that the transmittal of the report might induce the responsible authorities or the organizations of copyright owners to take appropriate action. Moreover, the States and organizations would be asked to send their comments on the report to the Secretariats. Those comments would then be evaluated by the Secretariats with the aid of a consultant and submitted to the next sessions of the Committees. Finally, the Committees expressed the desire that the problems facing the hard of hearing be investigated also.

#### Protection of folklore

80. The Director-General of WIPO said that Unesco was engaged in a study of all aspects - cultural, social, legal, etc. - of folklore and that it was originally envisaged that Unesco and WIPO would carry out a joint study of the protection of works of folklore against unauthorized exploitation once the general study has at least led to the definition of folklore. Since the said global study seemed to require still some time, the International Bureau of WIPO has prepared a first draft of copyright-like but sui generis model provisions for national protection of works of folklore, which, if Unesco agrees, it intends to submit for information to the WIPO Permanent Committee Related to Copyright and Neighbouring Rights during its forthcoming session in March 1979 at Dakar. The International Bureau has sent to Unesco the text of the said draft model provisions.

81. The representative of the Director-General of Unesco said that the global study should first arrive at the definition of folklore since such definition was a prerequisite of drafting provisions concerning the exploitation of works of folklore. Unesco was willing to undertake a joint study with WIPO in 1979 to lay down the guiding principles for such provisions. However, the General Conference of Unesco is expected to deal with all aspects of folklore at the same time in one single global instrument.

82. The delegation of Mexico expressed its interest in having this matter progressed expeditiously for elaborating a system of legal protection of works of folklore, and inquired whether the programme provided for in this item could not be accomplished in less than three years. While supporting the programme of WIPO, it also requested elaboration of standards of bilateral or multilateral international protection. In its view the legal approach should not necessarily be retarded by the equally important overall global study of the problems related to folklore.

83. The observer from Spain supported the stand taken by the delegation of Mexico.

84. The observers from Niger and Portugal supported the opinion expressed by the delegation of Mexico and urged concrete steps being taken expeditiously in this regard.

85. The observer from Costa Rica was grateful to WIPO and Unesco for the efforts already taken. He stressed - together with the delegation of Ghana and the observer from Portugal - the importance of having folklore protected also internationally.
86. The delegation of Australia was concerned about the long delay in the preparation of the necessary instruments. It emphasized that the elaboration of any international instrument should not delay the drafting of national model provisions. It suggested that the draft model provisions already prepared by WIPO should form the basis of joint study planned with Unesco for 1979.
87. The delegation of India was concerned about the efforts made to have folklore protected nationally and internationally, and looked forward to closer co-operation between WIPO and Unesco in this field. In view of the urgency of the matter, it suggested that the model provisions already prepared by WIPO should be submitted to the WIPO Permanent Committee in March.
88. The delegation of Israel called for special efforts to solve the difficulties in respect of the definition of folklore.
89. The delegation of the Federal Republic of Germany and the observer from Hungary were of the opinion that a precise definition of folklore was important in the context of any international instrument. However, in respect of model provisions for national legislations, the definition could be more flexible.
90. The observer from Portugal supported the view that definitions could be left to the respective national legislations.
91. In the view of the delegation of France, the only possibility of having folklore internationally described was to prepare a list of relevant types of works of folklore. Folklore as the property of a nation could hardly be subjected to specific limitations.
92. Regarding an international instrument to be established, the delegation of France raised the question whether it is the right way to place the question of the protection of folklore in the programme under the heading "III. Promotion of protection outside of treaties". It suggested that this item be placed under a new title which should read as "Promotion of the protection of different subjects through copyright".
93. The delegation of Yugoslavia supported the proposal of the delegation of France.
94. On the question of the Director-General of WIPO, the representative of the Director-General of Unesco said that Unesco had no objection to WIPO's submitting the draft model provisions prepared by the International Bureau to the forthcoming session (Dakar, March 1979) of the WIPO Permanent Committee, it being understood that the observations formulated by Unesco on this draft are maintained. Regarding the problem of definition, the representative of the Director-General of Unesco explained that at national level there is no incompatibility with solutions to be found internationally. At the international level however, since it has been decided to follow a global approach, aspects of legal protection must be adopted through joint efforts of the two Organizations, in order to avoid the coming into existence of two different instruments.
95. In conclusion, the Committee noted that the draft model provisions for national protection of folklore prepared by the International Bureau would be submitted for information to the forthcoming session of the WIPO Permanent Committee and

recommended that this item be maintained. The Committee also noted that it would be convenient to proceed with the preparation also of a draft of model provisions concerning the international protection, without prejudice to the measures that Unesco could adopt concerning all aspects of folklore.

PART III: OTHER ITEMS CONCERNING THE INTERGOVERNMENTAL COPYRIGHT COMMITTEE ALONE

Adoption of the report

96. In the absence of the Chairman of the Committee, Mr. Kerever, the meeting was chaired by Mr. Mayer Gabay, Vice-Chairman.
97. The Committee unanimously adopted this report.

Closing of the meeting

98. The Chairman then declared the meeting closed.

ANNEXE/ANNEX/ANEXO

LISTE DES PARTICIPANTS  
LIST OF PARTICIPANTS  
LISTA DE PARTICIPANTES

Les noms et titres qui figurent dans la liste ci-après sont reproduits dans la forme où ils ont été communiqués au Secrétariat par les délégations intéressées. Les pays sont mentionnés suivant l'ordre alphabétique de leurs noms en français.

Names and titles in the following list are reproduced as communicated to the Secretariat by the delegations concerned. Countries are shown in the French alphabetical order of their names.

Los nombres y títulos que figuran en la siguiente lista se reproducen en la forma en que las delegaciones interesadas los han comunicado a la Secretaría. Los nombres de los países se mencionan siguiendo el orden alfabético francés.

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