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**INTERNATIONAL CONVENTION FOR THE PROTECTION OF PERFORMERS,  
PRODUCERS OF PHONOGRAMS AND BROADCASTING ORGANIZATIONS  
(ROME CONVENTION, 1961)**

**INTERGOVERNMENTAL COMMITTEE  
Nineteenth Ordinary Session**

**(Paris, 27 – 28 June 2005)**

Item 7 of the provisional agenda:

**REPORT ON THE ACTIVITIES OF ILO, UNESCO AND WIPO TO PROVIDE  
ASSISTANCE AND TRAINING FOR DEVELOPING COUNTRIES WITH A  
VIEW TO PROMOTING THE PROTECTION OF PERFORMERS, PRODUCERS  
OF PHONOGRAMS AND BROADCASTING ORGANISATIONS**

The memoranda prepared on the above subject by the Secretariat of International Labour Organization, the Secretariat of UNESCO and the International Bureau of WIPO are attached to this document as Annexes I, II and III, respectively.

[Annexes follow]

## ANNEX I

### *Memorandum prepared by the Secretariat of ILO*

As a member of the Rome Convention Secretariat, the International Labour Office (ILO) has been involved in work on the protection of performers, producers of phonograms and broadcasting organizations and others in the context of new technologies, multimedia convergence and the globalization of media and entertainment. ILO activities are oriented towards its strategic objectives of promoting *fundamental principles and rights at work, employment, social protection, and tripartism and social dialogue* within the framework of its decent work agenda. Only rarely are these activities directed solely towards performers, producers of phonograms and broadcasting organizations. Since the 18<sup>th</sup> session of the Intergovernmental Committee held in June 2001, the activities of the ILO relevant to these industries have included: standard setting, ILO Meetings, technical assistance, publishing and ILO attendance at relevant meetings.

#### **1. Standard setting activities**

Of particular relevance to performers and others is the ILO's ongoing examination of possible standards on the employment relationship. Many media and entertainment workers are employed on short-term or temporary contracts or work under subcontracting arrangements. The lack of continuity in employment, combined with their "independent" employment status, may prevent access to social security schemes, paid holidays, maternity protection and safety and health protection. As indicated in our report to the 18<sup>th</sup> Session of this Committee, the ILO Governing Body placed the employment relationship on the agenda of the 91st Session of the International Labour Conference (ILC), June 2003. Discussion about performers in atypical employment took place at the June 2003 Session of the International Labour Conference, in the Committee on the Employment Relationship. This item has since been placed on the agenda of the 95<sup>th</sup> session of the International Labour Conference, June 2006, with a view to the possible adoption of an international labour standard on the employment relationship, which could be of great importance to performers. Elements might include providing workers and employers with clear guidance on employment relationships, in particular distinguishing between dependent and self-employed workers; providing effective protection for workers; combating disguised employment; not interfering with genuine commercial or independent contracting; and providing access to appropriate resolution mechanisms.

#### **2. ILO Meetings**

##### **The Future of Work and Quality in the Information Society: The Media, Culture, Graphical Sector**

Performers were among the groups highlighted in the ILO Tripartite Meeting on the Future of Work and Quality in the Information Society: The Media, Culture, Graphical Sector (18-22 October 2004). The Meeting brought together representatives of governments, employers' and workers' organizations from over 50 countries to discuss the topic, on the basis of a background Report (see section 4) prepared by the ILO. The Meeting adopted conclusions on issues relating to Employment, Quality, the World Summit on the Information Society and Social Dialogue. The conclusions included the following:

- « 7. The quality of content is a result of an intellectual or artistic achievement and often lies at the core of a contractual or other work relationship. Increasing use of independent contractors in media and entertainment affects the balance between individual content providers and enterprises that commercialize their work. ...
9. The social partners note the definitions in the conclusions concerning the employment relationship adopted by the International Labour Conference in June 2003 of disguised employment, ambiguous employment relationships and triangular relationships. They acknowledge that these three categories - along with genuine self-employment - raise important issues for the social partners in the sector. These issues should be considered in the context of the proposed Convention on the employment relationship at the ILC in 2006. ...
11. The emergence of ICTs has fostered an environment where violation of intellectual property may flourish, with a significant labour market impact. Unauthorized use damages the interests of employers, workers and creators, and deprives the State of tax revenues. The ILO should formulate policy recommendations to address unauthorized use in relation to the world of work.
12. Intellectual property efforts need to be coordinated with the World Intellectual Property Organization (WIPO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Copyright infringement and unauthorized use constitute a serious concern because of their harmful effect on the sector. This is especially serious in countries without clear legislation.
13. Employers and creative workers share a strong interest in the role of copyright and neighbouring rights in innovation and creation. Such rights should be strongly protected in the context of new technologies on the basis of international instruments in this field and in agreement with core labour standards as reflected in the Declaration on Fundamental Principles and Rights at Work. ...
18. The ILO should:
- ... transmit the *Note on the proceedings* of this Meeting to the WSIS Preparatory Committee, emphasizing the importance that the social partners give to intellectual property rights, noting that the economic viability of enterprises in the media, culture, graphical sector and the well-being of content creators were at stake, and stressing the importance of fundamental rights and principles at work for workers in the sector, who are all concerned by ICTs;...
19. There are existing forums for social dialogue on certain issues raised during this Meeting, such as the June 2005 Meeting of the Intergovernmental Committee on the ILO/UNESCO/WIPO Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the UNESCO General Conference in October 2005 on the draft Convention on Cultural Diversity, and the 95th Session of the International Labour Conference in 2006 in relation to the discussion of a possible international labour standard on the employment relationship. Each forum should address the issues within its mandate. ...

29. Having regard to its very limited resources, the ILO should:

- encourage and support employers' and workers' representatives in this sector to engage in social dialogue especially with regard to the introduction of technological change; ...
- explore means to provide protection to content providers not adequately covered by collective bargaining procedures, reaffirming the importance of social dialogue;
- cooperate at the international level, within the scope of its mandate, in efforts to promote action to protect copyright and related rights; ...
- in accordance with the conclusions of the ILC in June 2003 concerning the employment relationship, undertake further research on the sectoral dimensions of these changes, with particular reference to women, and work to develop usable, comparative data and data categories;
- develop an international code of practice establishing adequate safety conditions for the employment of child performers in the entertainment industry;... .” »

### **3. Technical assistance**

#### **3.1. Small Enterprise Development and Job Creation in the Cultural Industries in Africa**

The main outputs of this project, implemented by the ILO and funded by the Ford Foundation, included:

3.1.1. Five policy-oriented research reports on the cultural industries in the SADC Region<sup>1</sup> and a synthesis report, all using an innovative research methodology, based on value-chain analysis adapted for the cultural industries;

3.1.2. Two stakeholder workshops (National and Regional) where main findings from the studies were disseminated and priorities for next steps were identified;

3.1.3. A Culture Sector Workshop (15-17 June 2003), financed by the ILO in partnership with the Senegalese Ministry of Culture, aimed at providing policy recommendations to the First ACP International Meeting of Ministers of Culture, Dakar 18-20 June 2003<sup>2</sup>;

3.1.4. An ILO-financed study on the Senegalese Film Industry;

3.1.5. Five cultural industries studies in Brazil, in collaboration with the Ministry of Culture and the Ministry of Labour, on the small enterprise, employment and labour dimensions of the audio-visual industry in Brazil<sup>3</sup>; and

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<sup>1</sup> See section 4

<sup>2</sup> The ILO is cited in the Dakar Plan of Action, 2003 (paragraph 58).

<sup>3</sup> The studies, which will be published in due course, are as follows:

*Employment and labour relations in the film industry in Brazil,*

*Employment and enterprise dimensions of the music industry in Brazil,*

*Developing a locally-rooted music industry in Bahia state,*

*Culture and development: the music cluster of Conservatoria, Rio de Janeiro state, and*

3.1.6. Training materials for cultural entrepreneurship developed and tested in partnership with the Culture Sector Support Programme and the Ministry of Labour, Zambia, the intention being to make this package available for capacity-building and training of artists in other African countries, with adaptations for other regions and other languages contemplated at a later date.

## **3.2. Assistance to performers' organizations**

The International Labour Office and the International Training Centre of the ILO in Turin have provided financial and technical support to performers' organizations for various projects. These included:

3.2.1. A meeting on Social Protection for Musicians in Africa, for national associations of musicians from 14 African countries, in Cape Town, 10-12 December 2003, organized jointly with FIM.

3.2.2. ILO assistance to musicians in Senegal creating their own micro health insurance scheme - instead of risking having to pay expensive medical bills, they can pay small contributions to a local micro-insurance scheme.

3.2.3. Training on trade union organizing and collective bargaining for musicians was also carried out in the Asia-Pacific region in 2003-2004. The ILO supported FIA and FIM in organizing the first pan-Asian workshop for performers' trade unions in the region (actors, dancers and musicians), held in Hong Kong, China, in October 2004, which included issues related to intellectual property rights, and aimed at assessing the local needs before starting a medium-long term training programme in Asia.

## **4. Publications**

### **4.1. The Future of Work and Quality in the Information Society: The Media, Culture, Graphical Sector**

The Report for discussion at the abovementioned Tripartite Meeting, published in September 2004, discusses:

- the Information Society and the Media, Culture, Graphical sector;
- the development of the Information Society;
- the impact of ICTs on the sector;
- intellectual property rights and labour rights in the information society;
- the impact of ICTs on contractual arrangements;
- the Information Society and gender equity;
- relevant international instruments; and
- social dialogue in the sector.

### **4.2. Note on the Proceedings: The Future of Work and Quality in the Information Society: The Media, Culture, And Graphical Sector**

This contains a summary record of the discussions, and reproduces the conclusions adopted to provide guidance for the ILO's future work in the media and entertainment industries.

#### **4.3. The social situation of musicians in Asia, Africa and Latin America**

This report by FIM was published by the ILO in 2001 in French, and in 2002 in English. It underlines that the majority of musicians in these regions lived in very precarious conditions. The employment status of musicians was frequently “independent,” so musicians were often not covered by social security schemes. The study notes the increase in unemployment of musicians. While commercial activity in musical recordings and distribution was increasing in these regions, collecting societies remained very underdeveloped. The study identifies the need to provide assistance to improve the protection of musicians in developing countries.

#### **4.4. Child performers working in the entertainment industry around the world: An analysis of the problems faced**

This study, written by Katherine Sand, former General Secretary of International Federation of Actors, was published in 2003. It examined the value of children to the entertainment industry, the various international and regional standards relating to protection of children and child labour and their relevance to child performers. It also considered the regulation and monitoring of children’s working conditions in the entertainment industry and the role of performers’ organizations. Several key elements for protecting child performers identified by the author included pay, licensing and permit systems, hours worked per day/year, educational provisions and requirements, moral oversight, health and safety. The report concluded by discussing ways to improve the protection of child performers. It also provided a bibliography, some examples of laws, regulations and collective agreements on this subject, and an analysis of the responses from performers’ trade unions in over 30 countries to the FIA survey on child performers.

#### **4.5. Workplace violence in services sectors and measures to combat this phenomenon: An ILO code of practice**

This code, published in 2004, provides guidance to ILO constituents and all those responsible for addressing violence in services sectors, including the media and entertainment industries. It was based on an analysis of the extent, nature and causes of violence in services, and of the potential inter-relationship between violence and stress. It identifies the roles and responsibilities of Governments, employers' and workers' organizations, and the public, customers and clients. Through the processes of identification, recognition, assessment, recording and notification of violence in services sectors, the code lays the foundations for risk assessment, prevention, reduction, management and coping strategies to address these problems. The provisions of the Code are intended to assist in reducing or eliminating violence at workplaces including entertainment venues around the globe.

#### **4.6. Violence and stress at work in the performing arts and in journalism**

This working paper was published in preparation for the Meeting of Experts to develop a *Code of practice on Violence and Stress at Work in Services: A Threat to Productivity and Decent Work*, held in October 2003. It aimed to promote action to tackle violence and stress in media and entertainment sector workplaces, and complement work being carried out by the ILO and other organizations to assist in reducing or eliminating stress and violence at workplaces in services sectors around the world.

#### **4.7. ILO Small Enterprise Development Working papers**

Five Small Enterprise Development Working papers were published in May 2003 (in English only), as follows:

4.7.1. *Small Enterprise Development and Job Creation in the Culture Sector in the SADC Region: Performing Arts and Dance*, Annabell Lebethe.

4.7.2. *Small Enterprise Development and Job Creation in the Culture Sector in the SADC Region: Television and Film*, Avril Joffe and Nathalie Jacklin.

4.7.3. *Small Enterprise Development and Job Creation in the Culture Sector in the SADC Region: The Music Industry*, Cecile Lambert.

4.7.4. *Small Enterprise Development and Job Creation in the Culture Sector in the SADC Region: Visual Arts and Crafts*, Members of the Trinity Session, South Africa.

4.7.5. *Small Enterprise Development and Job Creation in the Culture Sector in the SADC Region: Ethno-Tourism*, Steven Bolnick.

#### **4.8. Website on Relevant international standards**

In 2002, the ILO's Sectoral Activities Department created a website on *Relevant international intellectual property standards* (<http://www.ilo.org/public/english/dialogue/sector/sectors/media/standards.htm>), including sections on the Rome Convention and on related international standards. The ILO also assisted UNESCO in its work on the World Observatory on the Social Status of the Artist website ([http://portal.unesco.org/culture/en/ev.php-URL\\_ID=8084&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=8084&URL_DO=DO_TOPIC&URL_SECTION=201.html)).

### **5. Participation in relevant meetings**

In 2001-5, the International Labour Office contributed to several meetings, including the following:

#### **5.1. The Third European meetings for performers: Rights for tomorrow** (Cabourg, France, 12 to 14 December 2002)

The ILO attended this meeting as a panellist in the session on "Performers' rights in Africa and the Arab world". Approximately 200 actors, musicians, trade unionists, film and music producers, broadcasters, government and IGO/NGO officials, journalists and others attended the Meeting.

#### **5.2. FIM Conference on employment regimes and the mobility of performers in Europe and around the World** (Paris, Cité de la Musique, 24 May 2002)

The ILO participated in the roundtable discussion on performers' employment regimes around the world.

**5.3. Regional Workshop on the Social Rights of Artists in the MERCOSUR Countries, Bolivia and Chile** (Santiago, Chile 22-24 October 2002)

This workshop exchanged views on areas related to labour, social security and intellectual property legislation, the Rome Convention (1961), and the UNESCO Recommendation on the Status of the Artist (1980). Around 80 actors, musicians, trade unionists, film and music producers, broadcasters, government and IGO/NGO officials, journalists and others attended the three-day seminar, from Latin America and from Europe. The Seminar adopted wide-ranging conclusions that were presented to the Summit of MERCOSUR's Ministers of Culture in November 2002.

**5.4. IFP/SEED National Workshop on Enterprise Development in the Cultural Sector in Zambia** (Lusaka, Zambia, 2-4 October 2002)

Around 150 employers, workers, governments and other stakeholders from Zambia and participants from other SADC countries attended this meeting, representing the performing arts, visual arts and crafts, ethno-tourism and film and video. It disseminated the main findings and policy implications of various sectoral reports, and aimed to seek local commitment and potential areas of support for future activities, to identify training needs and priorities, and to understand the opportunities and constraints facing the cultural sector. Project proposals were developed with local stakeholders from the creative industries for the development of training materials in the area of cultural entrepreneurship and follow-up activities.

(Annex II follows)

## ANNEX II

*Memorandum prepared by the Secretariat of UNESCO*

### Assistance to the States

As the last session of the Committee took place in June 2001, the report covers UNESCO's assistance to Member States from July 2001 to April 2005:

#### 1. Information and awareness-raising activities

##### 1.1. Electronic Copyright Bulletin in six languages: Arabic, Chinese, English, French, Russian and Spanish versions

Created as a traditional quarterly legal journal and first published in 1948 in French and English, UNESCO *Copyright Bulletin* gradually developed as a genuine international legal journal in the field of copyright, and is currently published in all six official languages of UNESCO. After the Spanish version in 1957, Russian in 1985 and Chinese in 1994, a new Arabic-language version was launched in December 2004.

Starting from the year 2001, the printed format of the *Bulletin* has gradually been replaced with an electronic one for all language versions, which are now available on the Internet and are accessible free of charge. The main objective of the change was to make the content of the Bulletin more widely and rapidly accessible. After the English, French and Spanish versions were made available on-line in 2001, the first on-line Chinese version was published in 2003 and the Russian language edition in the first quarter of 2004. The Arabic language version was launched directly as an electronic edition in December 2004. All versions can be consulted through the following link: [www.unesco.org/culture/copyrightbulletin](http://www.unesco.org/culture/copyrightbulletin).

*The Copyright Bulletin* assists copyright lawyers, as well as government officials, collecting societies, law professors, researchers, industry experts and students in studying and understanding the complex and ever-evolving copyright landscape by publishing doctrinal articles, information on national, regional and international developments, new legal instruments and case law. The authors include scholars, academics and practitioners from all regions of the world in both industrialised and developing countries. By way of example, it may be noted that in the course of the period 2001-2004, the Bulletin has published more than 15 articles by renowned experts in the copyright field. (Yves Gaubiac, Paul Spurgeon, Silke von Lewinski, Christophe Seuna, Mihaly Ficsor, Jürgen Becker, Reinhold Kreile, Lucie Guibault, Igor Gliha). The largest number of articles were devoted to copyright and neighbouring rights questions emerging from the digital environment. Several articles focused on issues related to the collective management of rights.

##### 1.2. Publications in the field of copyright and neighbouring rights

The complete list of available UNESCO publications can be found at [www.unesco.org/culture/copyright](http://www.unesco.org/culture/copyright)

1.2.1. In relation to its activities in support of the teaching of copyright law (cf.2), UNESCO commissioned in the 1990's the first international manual on Copyright and Neighbouring rights. Written by Professor Delia Lipszyc, the book is set out as a university manual which presents, in a clear and comprehensive manner, all aspects of this legal discipline as reflected in the different laws throughout the world, i.e. the relevant international conventions and current international thinking on the subject, in the light of technological progress in the methods of creation, production and dissemination of the works of the mind.

Published initially in Spanish (1993), French (1997) and English (1999), the Manual was translated into Chinese in 2001, into Russian in 2002 and into Arabic in 2004 and constitutes one of the rare exhaustive manuals for the teaching of copyright and related rights in these languages.

1.2.2. In November 2004, UNESCO published *Nuevos temas de derecho de autor y derechos conexos - New Topics in Copyright and Related Rights* – second volume of UNESCO's Manual on Copyright and Neighbouring Rights, a joint publication with the Regional Centre for book promotion in Latin America and the Caribbean (CERLALC) and Víctor P. de Zavalía Publishing S.A. The manual addresses the challenges of the digital technology that copyright has faced over the last ten years, as well as the legislative and case law response to these concerns at the international, regional and national levels. The new manual comes to complete the first one, which continues to be a reference title, and is meant to serve as a basic study tool for UNESCO Copyright Chairs around the world. Its publication in French and English is foreseen.

1.2.3. UNESCO, in collaboration with CERLALC, provided support for the publication of a manual for distance learning of copyright and related rights by enforcement authorities, elaborated by Dr Antequera Parilli and the Dominican National Judicial School.

1.2.4. *The ABC of Copyright*, originally published by UNESCO in 1981 and later translated into more than 10 languages, aimed to facilitate the understanding of the complicated subject of copyright by replacing sophisticated legal language and terminology with a language that could be easily understood by everyone.

*The ABC of Copyright* has now been updated taking into account the technological changes that have occurred in the world in the last two decades. Changes introduced in the international legal regulation of copyright have also been taken into account. It is currently ready for an initial publication in English and French, in the second half of 2005.

### **1.3. On-line tools for copyright experts and the general public**

1.3.1. The development of UNESCO's electronic Collection of National Copyright Laws started in the 1990's, and has been completely restructured. The new on-line collection was launched in three languages (English, French, Spanish) in December 2003. The Collection allows rapid and free-of-charge access to the national legislations on copyright and related rights of more than 100 states. The texts of the laws and their official translations are communicated to UNESCO by the official copyright authorities of Member States. The collection is constantly being supplemented and updated.

<http://www.unesco.org/culture/copyrightlaws>

1.3.2. In cooperation with CERLALC and the American Institute of Copyright (IIDA), UNESCO published in 2003, an on-line collection of approximately 1500 jurisprudence cases in the field of copyright from the Latin American region. This database was developed to serve mainly, the needs of the universities in the RAMLEDA network of UNESCO Copyright Chairs, the needs of academics, experts, national copyright offices, judges, attorneys and researchers, but also those of other universities where copyright law is taught.

## **2. Teaching and training activities**

### **2.1. Support for teaching of copyright by setting up UNESCO Copyright Chairs in universities throughout the world**

UNESCO started this activity in 1988 following the recommendations of the World Congress on Teaching of Copyright. Its objective is to develop the teaching of copyright and provide ongoing training so that a certain number of qualified specialists could come to work in the national economy on a regular basis, especially in developing countries, and thus contribute to the development of modern legal framework and enforcement of copyright laws. This also plays a role in ensuring a balanced international co-operation between the actors in the field of cultural development and allows Member States to participate in the elaboration and updating of the international codification of copyright and related rights laws.

2.1.1. To date, 15 UNESCO Chairs on Copyright have been created at the universities in various regions, namely in Algeria, Argentina, Brazil, Chile, Colombia, Cuba, China, Georgia, Jordan, Spain, Paraguay, Puerto Rico, Venezuela, Russian Federation and Tunisia. In 1998, the 8 Latin-American UNESCO Chairs were grouped in a network called RAMLEDA to encourage inter-university cooperation. Thanks to the joint effort of UNESCO and CERLALC, this network has led to the creation of more than 80 specialised Chairs at universities in the countries of the region. Since the last Intergovernmental Copyright Committee in 2001, UNESCO Copyright Chairs have been established in Georgia and China, the latter solemnly inaugurated by the Director-General of UNESCO at the Department of Law of Renmin University in China on 24 August 2001. Copyright chairs are about to be created in Cameroon and Moldova. The possibility of creating chairs in Egypt, Nigeria and Senegal is currently under discussion.

UNESCO's support for the Copyright Chairs takes the form of assistance by providing documents, publications, studies, teaching material free of charge; financial assistance for purchasing legal literature and subscription to specialised periodicals (Algeria, Argentina, Brazil, Cameroon, Chile, Colombia, Cuba, China, Georgia, Jordan, Moldova, Paraguay, Puerto Rico, Spain, Venezuela, Russian Federation, and Tunisia); short-term fellowships for future Chair-holders to strengthen their practice of teaching at a foreign university; financing participation in international experts' seminars; long-term fellowships to postgraduate students for research purposes (Brazil, Chile, China, Uruguay, Venezuela and Senegal) as well as assistance for editing and publishing their own copyright newsletters (Georgia).

2.1.2. In November 2002, Professor Delia Lipszyc (Argentina), Professor David Dzamukashvili (Georgia), Professor Mikhail Fedotov (Russian Federation), Professor Amor Zahi (Algeria) and Professor Bassam Al-Talhouni (Jordan), Chair-holders in their respective countries, participated in the World Forum of UNESCO Chairs and reported on the activities and experience of the Chairs for which they are in charge.

2.1.3. In 2003, UNESCO contributed to the training of 40 private law teachers by organising with CERLALC and the Copyright Chair of the University of Chile, two specialized training courses on copyright provided by renowned international academics. It also allocated six grants for the participation of law teachers (from Argentina, Chile, Colombia, Panama, Peru and Dominican Republic) in copyright and related rights postgraduate courses held under the auspices of UNESCO Chairs, at the University of Buenos Aires (Argentina) and the University of Los Andes (Venezuela).

2.1.4. In collaboration with CERLALC, UNESCO organized a meeting of the UNITWIN/UNESCO Ibero-American network in 2004, for university teaching of copyright and neighbouring rights (RAMLEDA), which provided an opportunity for the network members to study the ways and means of strengthening the transfer of specialised and general knowledge in this field, with particular emphasis on distance learning.

2.1.5. An international Network of UNESCO Copyright Chairs to promote cooperation and the transfer of knowledge in a fair and equitable context has been planned and is currently under discussion.

## **2.2. Development of study programmes and instructional and teaching materials**

In view of the above, UNESCO elaborated a special teaching programme, which was discussed by committees of law professors in all regions of the world to adapt it to the needs of each region and was circulated to the Ministries of Higher Education of the States and universities of these regions. After having been used for more than 20 years as a basic syllabus for copyright undergraduate and postgraduate courses, the programme was updated in 2004 by Professor Delia Lipszyc. It has been reviewed and approved by the Chair-holder members of the UNITWIN/UNESCO Ibero-American network for university teaching of copyright and neighbouring rights (RAMLEDA) and will be submitted to committees of law professors in other regions for adaptation to their specific needs.

In relation to this programme, UNESCO commissioned the first international manual on *Copyright and Neighbouring rights* and its second part *Nuevos temas de derecho de autor y derechos conexos* (cf. 1.2.1 and 1.2.2).

## **2.3. Training seminars and workshops**

Along with the support provided for the teaching of copyright law at university level, during the period 2001-2005, UNESCO has organised or contributed to the organisation of a number of training seminars in the field of copyright and neighbouring rights for creators, professionals from the creative industries and enforcement authorities:

In 2002, UNESCO supported the organisation of a copyright training workshop in Sierra Leone.

In 2003, UNESCO supported a training workshop for artists and musicians in Zimbabwe.

Within the framework of the UNESCO Global Alliance for Cultural Diversity and in cooperation with the Instituto Superior de las Artes de la Universidad de Cuba (ISA), a training workshop for musicians was organised in Cuba in 2004, with a focus on the basic principles of copyright and neighbouring rights and the contractual practices applied in the music industry. The seminar was organised in partnership with the International

Confederation of Societies of Authors and Composers (CISAC), the French performers' collecting society ADAMI and the Cuban copyright office CENDA.

In October 2004 UNESCO supported a regional workshop for the Southern African Development Community (SADC: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe), organized by the Copyright Society of Malawi (COSOMA), which focused on collective management of copyright and related rights, impact of cultural goods on the economies of the countries of the sub-region, and harmonisation of methods and systems to combat piracy.

A discussion panel on copyright issues was organised by UNESCO and the Ministry of Culture of the Palestinian Authority within the framework of the UNESCO-sponsored Book Fair in Ramallah in 2005, with the participation of government officials, representatives of the publishing and music sectors, researchers and other stakeholders.

A training workshop for creators was organised in Vietnam in March 2005, jointly with the Asia-Pacific Cultural Centre for UNESCO (ACCU), the Vietnam Copyright Office and the Kim-Dong Publishing House.

A copyright conference in collaboration with the Goethe Institute and the Royal Cinematography Office is scheduled to take place in Jordan in May 2005.

### **3. Studies and research**

#### **3.1. Reaffirming and promoting a fair balance between the interests of right-holders and the interests of the public in the digital environment**

In the light of the ever more evolving digital environment and the challenges it poses to copyright, UNESCO undertook in 2002, a study on the exceptions and limitations to copyright protection, particularly in the field of scientific research, education and culture, and the striking of a fair balance between the general interest tasks of the transmission of knowledge and protecting the legitimate rights of authors and other rights holders. This was done in the framework of the 2002/2007 Medium Term Plan further to the 31st session of the General Conference decision that a research on this sensitive and complex problem should be undertaken, with the concerted participation of representatives of authors and other rights holders' organisations and those of sectors responsible for general interest tasks of knowledge transmission throughout the world. The contributions to the study bore essentially on an analysis of the practice of limitations and exceptions of various sectors of users and rights holders, the nature and scope of conventional law and the possibilities it offers with regard to the new requirements and the approaches of the national legislations to meeting their international obligations in this field, particularly, in Africa, Latin America and the Caribbean, Asia and the Pacific, the Community of Independent States (CIS), and in the Arab States. Most documents were published in the *Copyright Bulletin*, including the major

contribution “ *Nature and scope of limitations and exceptions to copyright and neighbouring rights with regard to general interest missions for the transmission of knowledge: prospects for their adaptation to the digital environment*” by Dr. Lucie Guilbaut under the supervision of Prof. Bernt Hugenholtz.

### **3.2. Copyright Perspectives**

Jointly with the Max Planck Institute (Germany) and IRPI, the Research Institute of Intellectual Property Henri-Desbois (France), UNESCO is co-organising a series of meetings aimed at discussing polemic issues in the field of copyright and neighbouring rights and to contribute to the debate on copyright in the digital environment. The topics of the five conferences, taking place between December 2004 and November 2005 include the scope of copyright protection, the alternatives to copyright protection, exceptions to copyright, collective management and contractual aspects of copyright.

### **3.3. Copyright and the Internet**

In June 2004 UNESCO co-organised the Second International Review of the Internet, Computer Science and Telecommunications in Latin America, with The Regional Centre for Book Promotion in Latin America and the Caribbean (CERLALC), the Law Faculty of the Andes University and the Colombian National Copyright Office (DNDA). The Forum focused on the academic and technological challenges of copyright, studied more particularly the technological protection measures and analysed the implications of the technological advancement on the protection and access to works.

## **4. Enforcement and management of rights**

### **4.1. Prevention and fight against piracy**

In accordance with its 2004-2005 Regular programme and budget, UNESCO’s activities in this area are developed largely through innovative public/private partnerships within the framework of UNESCO Global Alliance for Cultural Diversity, the main objective of which is to contribute to the development of sustainable cultural industries in developing countries and countries in transition through capacity-building, policy advice, development of infrastructure and piracy prevention.

#### **4.1.1. Prevention of piracy through training**

In 2004 UNESCO developed and launched the Anti-Piracy Training for Trainers project, consisting of a series of regional and/or sub-regional courses for copyright law enforcement officials. The development objective of the project is to contribute to the reduction of intellectual piracy rates, while its immediate objective is to provide knowledge and expertise in the field of copyright law and intellectual piracy, at a first stage, to the participants in the course, and, at a second stage - to a much larger circle of national authorities which have to be involved in the anti-piracy activities - law-makers, government, police, customs, magistrates etc.

The first advanced course for copyright enforcement officials was funded by the Government of Norway and was organised by UNESCO in the sub-region of South-East Europe. It took place in Sofia, Bulgaria in May 2004.

The participants included representatives of the national authorities responsible for the enforcement of copyright protection, notably second-instance court judges specialising in intellectual property, high-level prosecutors, customs and police officers. The beneficiary countries included Albania, Bosnia & Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro and Romania. South-East Europe was selected as a first target area with a view, on the one hand, to the high piracy rates in this region and, on the other, to the ongoing efforts of legal restructuring in these countries.

The advanced level training course focused on intellectual property protection, forms of piracy, mechanisms for detecting and measuring piracy, investigation of piracy and mechanisms for prevention and reducing the rate of piracy. Along with the theoretical part, the course addressed practical aspects, which included a visit to a lawful CD manufacturing site. Professionals with hands-on experience made a presentation of illegal products and methods in order to distinguish them from the original ones. At the end of the session, a case study exercise allowed testing the acquired knowledge in close-to-real-life situations.

Partners in the implementation of the project were the Bulgarian Copyright Directorate at the Ministry of Culture, the International Federation of the Phonographic Industry (IFPI), the Motion Picture Association (MPA), the IPR Group of the World Customs Organisation (WCO), BULLACT (Bulgarian video anti-piracy association), BAMP (Bulgarian association of Music Producers), BSA-Bulgaria (Business Software Association), ARSIS Consulting (law office specialising in IPR), and the Bulgarian National Commission for UNESCO.

The Anti-Piracy Training for Trainers project aims to achieve a multiplied effect, as the participants commit themselves to organise national follow-up seminars in order to convey the acquired knowledge and expertise to a much larger circle of national authorities involved in anti-piracy activities. UNESCO contributes to these national events with a methodological, technical and financial assistance.

The first follow-up national Anti-Piracy Training for Trainers seminar took place in Romania in December 2004 and brought together some 50 participants. The follow-up seminar in the former Yugoslav Republic of Macedonia is scheduled for April 2005, the seminars in Bosnia and Herzegovina (in cooperation with CISAC) and Bulgaria will take place in May 2005.

Further to this pilot project, UNESCO intends to continue its anti-piracy 'training for trainers' activities in other regions of the world.

In April 2005 UNESCO organized a training workshop on copyright and the fight against piracy for national authorities, copyright administration, and rights owners from Burkina Faso, Mali and Niger.

#### **4.1.2. Prevention of piracy through public awareness-raising and information**

In the framework of the Global Alliance for Cultural Diversity, a representative of UNESCO participated in the World Music Market (WOMEX 2004) and made a presentation on the importance of prevention and fight against piracy in developing countries.

With the aim to promote a culture of respect for copyright amongst the general public, particularly young people, UNESCO supported an advertising anti-piracy campaign monitored by the National Copyright Administration of Colombia through the public means of transport of the city of Bogotá (Colombia) by using the 'Mafalda' character created by the famous Argentinean illustrator Joaquín Quino.

UNESCO and CERLALC contributed to the elaboration of a copyright handbook entitled *Los oficios de la imaginacion - The skills of imagination* – which aims to promote a culture of respect for copyright among children in early school age. The handbook will be widely distributed in Latin America and translated into English and French.

As part of the Global Alliance for Cultural Diversity tools, UNESCO summarised and edited a survey on best practices in the fight against piracy in Latin America.

Capitalising on this experience, UNESCO is currently elaborating a survey analysing the practices of the fight against piracy in Africa with the purpose of supporting the reinforcement and networking of the various institutions concerned.

#### **4.2. Assistance to the States in collective management of authors' rights**

UNESCO has regularly encouraged Member States, notably the developing countries, to organize and develop the collective administration of rights of authors and other rights holders as an essential element in the construction of modern national systems of protection of copyright, which would effectively promote a dynamic cultural development. UNESCO's assistance has borne particularly on the creation of structures adapted to the administration of rights, the training of professional personnel and the provision of expertise leading to a competent organization of the various technical activities related to the administration of rights.

4.2.1. The *Guide to the Collective Administration of Authors' Rights* was published by UNESCO in 2000. Written by Ms Paula Schepens from the Belgian collecting society SABAM and developed by UNESCO in collaboration with CISAC, the Guide is a useful and practical tool for copyright professionals. It was initially published in French and English, and, since 2001, has been translated and published in Lithuanian and Russian in cooperation with the European Commission. It is currently available free-of-charge on UNESCO's website: <http://unesdoc.unesco.org/images/0012/001206/120677e.pdf>

The wide distribution of this Guide assists, in particular, developing countries and countries in transition towards a market economy, to organize more efficiently their system of collective administration of rights. UNESCO will willingly grant publication rights to any country wishing to produce another language version of the guide.

4.2.2. In June 2004 UNESCO contributed to the reinforcement of collective management of copyright and related rights in the Democratic Republic of Congo by organizing an experts' committee, which elaborated a new framework and a new structure for the collective management and formulated proposals for the adaptation of the legislation to the international legal environment.

In July 2004 a copyright workshop, focusing on the role and functioning of collective management of rights, was jointly organised by UNESCO and ZIMRA (the collective management society) in Zimbabwe.

The reinforcement of the copyright system, and more particularly, of the collective management of rights is also the main objective of a project developed in Namibia with CISAC. In the framework of the Global Alliance for Cultural Diversity UNESCO aims to assist in the efficient collective management of the rights of authors and performers.

## **5. Legal and technical assistance provided on specific request by Member States**

5.1. In 2001, the UNESCO Office to the Pacific Community Cluster (Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) provided technical assistance for the elaboration of provisions on the protection of folklore. A Pacific Regional Framework has been developed in close consultation with the Secretariat of the Pacific Community and the Forum Pacific Island member countries and territories and the Council of Pacific Arts. The Regional Model Law for the Protection of Traditional Knowledge provides a basis for Pacific Island countries wishing to enact legislation in this field. It was approved by the Heads of the 16 Independent countries in 2001. It is now the responsibility of each country to process its implementation. At this stage, two countries have already drafted laws based on the Model Law to go to parliament. About 7 other states are taking steps and the rest are examining some amendments.

5.2. UNESCO supported the International Publishers' Association (IPA) and the African Publishers' Network (APNET) in organising a Copyright Conference in Ghana in 2002 entitled "Encouraging creativity through copyright protection". The conference addressed all essential copyright topics (implementation of Internet treaties; copyright protection and on-line distribution; legal protection of databases and traditional knowledge; licensing rights in the digital environment; the role of law enforcement and copyright education).

5.3. In 2002 UNESCO provided technical and financial support for the production of an information brochure for authors and performers, presenting the essentials of copyright protection in an accessible way. Support was also given to translate the Copyright and Neighbouring Rights Act into one of the most commonly spoken languages in Zimbabwe.

5.4. In 2003, with the objective of raising public awareness, UNESCO provided support to Bosnia and Herzegovina, through the collecting society Sine Qua Non, to translate selected international instruments in this area, as well as to publish and distribute instructive and informative brochures, including a survey of existing laws, to the general public and specific target groups.

5.5. In 2003 UNESCO supported the Federal Council for Literary and Artistic Works in Sudan to finance study visits abroad for 2 members of the Council, and to organise training for 75 stakeholders from public and private bodies, civil society, media, and cultural industries.

5.6. In 2003 UNESCO undertook and monitored the elaboration of a survey entitled "Music and Copyright", by Anwar Abu Eisheh and Mounir Anastas, on the economic and legal environment of musical and artistic production in the Palestinian Authority. Assistance was provided for designing a training plan for experts and a general copyright protection policy including the drafting of copyright legal framework, institutional enforcement infrastructure, collective management and fight against piracy.

- 5.7. In 2004 UNESCO provided legal assistance to the Syrian Arab Republic in studying the functioning of copyright protection and provided consultancy on legal and technical issues concerning copyright protection.

(Annex III follows)

### ANNEX III

*Memorandum prepared by the International Bureau of WIPO*

1. This document covers the activities of the World Intellectual Property Organization (WIPO) in the context of copyright and related rights between 2001 and 2004. These activities are conducted for the benefit of developing countries, including the least-developed countries (LDCs).

2. For the development of these activities, WIPO adopted a flexible and tailored approach taking into account the widely differing needs and capacities among developing countries and LDCs, and ensuring that action was consistent with national objectives as well as social and cultural development, economic growth and wealth creation interests. Technical, legal and related assistance programs, initiated in response to specific requests from individual countries, were managed by WIPO staff in the regional bureaus, as well as in other WIPO sectors such as the Copyright and Related Rights Sector, the Copyright Collective Management and Related Issues Division, the Enforcement and Special Projects Division and the Intellectual Property National Legislation Department.

3. Between 2001 and 2004, the above-mentioned WIPO assistance programs regarding copyright and related rights focused on the following objectives:

- Promoting copyright and related rights: Promoting a deeper understanding of the critical role of copyright-based industries to the economy as well as to specific sectors falls in line with the overarching goal of promoting the use of IP as a tool for economic development. This was the thrust of some studies in different Member States that aimed to analyze systematically the contribution of copyright-based industries to the economies of these countries based on national turnover, employment and foreign trade. In addition, meetings and seminars were organized at the national and regional levels to discuss current copyright and related rights issues relating to policy, strategy, enforcement and public awareness, balancing of rightholders' and consumers' rights and obligations, and the impact of the digital environment, and generally with a broad range of national and regional stakeholders. The role of collective management organizations in promoting the rights and interests of creators of copyright and related rights and in the process stimulating the growth of these industries was also emphasized in activities aimed at promoting the setting up of, or strengthening, national societies, primarily through expert advisory missions and training.

- Modernization of copyright and related rights systems including automation of national offices: Supporting national offices in modernizing legislation to conform with international treaty obligations and streamlining the administration systems for greater efficiency and improved service delivery continued to be extended to countries upon request. Institution building measures, the use of information technology, training and expert advisory missions were the usual components which were implemented through Nationally Focused Action Plans (NFAPs) or country projects.

- Creating value from copyright and related rights through licensing and other business opportunities: These rights can be the source of economic rewards. Creating value from them through various business arrangements such as licensing, cross-licensing and other business alliances was therefore a major effort to be inculcated to the creators and producers.

- Public outreach and information dissemination: Building capacities for public outreach remained an important area of work. National copyright offices needed to have the capacity and the facilities to deliver the message of copyright and related right protection as a tool for economic, social and cultural development to various users of the system. Major effort was undertaken in all regions of the world to customize existing WIPO promotional and information materials to suit national audiences.

4. Below is a summary of the activities carried out by WIPO to meet the above objectives

#### Legislative assistance

5. With respect to copyright and related rights legislation, developing countries continued to receive assistance in preparing new, or updating existing laws for compliance with current international standards.

6. During 2001, the assistance was rendered by the WIPO Secretariat, at the request of the countries concerned, in the form of preparation of two draft laws. In this regard, 18 sets of comments, to amend and modernize existing laws or draft legislation, were prepared and submitted. In addition, other legislative advice was provided in 12 cases and 7 advisory consultations were held with officials from developing countries (4 study visits to Geneva and 3 advisory missions abroad).

7. In 2002, WIPO prepared 6 draft laws and 14 sets of comments on draft or enacted laws. Legal advice was provided in 11 cases and 7 advisory consultations were held with officials from developing countries (2 study visits to Geneva and 5 advisory missions abroad).

8. In 2003, WIPO prepared 3 draft laws and 14 sets of comments on draft or enacted laws. Other legislative advice was provided in 12 cases and 5 advisory consultations were held (3 study visits to Geneva and 2 advisory missions abroad).

9. During 2004, WIPO prepared 3 draft laws and 13 sets of comments on draft or enacted laws. In addition, other legislative advice was provided in 7 cases and 2 advisory missions were undertaken.

#### Capacity-building meetings

##### In the Asian and the Pacific Region

10. In 2001, two regional, one national and one training meetings were organized, together with one advisory mission.

11. In 2002, two national and two training meetings were organized, together with three advisory missions.

12. In 2003, one regional, three national and two training meetings were organized, together with four advisory missions.

13. In 2004, one regional, one national and three training meetings were organized, together with one advisory mission.

#### In the African Region

14. In 2001, two advisory missions were organized.

15. In 2002, one international, one regional, ten national and two training meetings were organized, together with one advisory mission.

16. In 2003, five national and two training meetings were organized, together with two advisory missions.

17. In 2004, one regional, two national and one training meetings were organized, together with two advisory missions.

#### In the Arab region

18. In 2001, two national and two training meetings were organized, together with three advisory missions. Also, WIPO commissioned a study on copyright industries in the Arab region.

19. In 2002, one regional and three training meetings were organized, together with two advisory missions.

20. In 2003, six national meetings were organized, together with five advisory missions.

21. In 2004, eight national meetings were organized, together with one advisory mission.

#### In the Latin American and the Caribbean Region

22. In 2001, three regional, 14 national and three training meetings were organized. Also, WIPO participated in one international meeting.

23. In 2002, 11 regional, 11 national and two training meetings were organized, together with six advisory missions. WIPO also participated in six international meetings.

24. In 2003, six regional and 11 national meetings were organized.

25. In 2004, five regional, eight national and one training meetings were organized. WIPO also participated in eight international meetings.

Enforcement and other special projects

26. In 2001, three regional, two national and three training meetings were organized, together with three advisory missions.

27. In 2002, two regional, six national and two training meetings were organized, together with one advisory mission.

28. In 2003, two regional, five national and two training meetings were organized, together with two advisory missions.

29. In 2004, two national meetings were organized.

Collective management

30. In 2001, WIPO participated in seven international meetings and organized nine national, three regional and one advisory meetings. In addition, a pilot project on collective management of intellectual property rights of visual creators in Mercosur countries was launched by WIPO, and a study on vigilance and legitimation of collective management societies in Latin America was commissioned. WIPO also launched a regionally focused action plan (RFAP) for collective management of copyright and related rights in the Caribbean.

31. In 2002, WIPO participated in four international meetings and organized seven national, seven regional and one training meetings, together with one advisory mission. It also commissioned a study on the possibility of establishing a regional cooperation in collective management in ASEAN countries and signed a cooperation agreement with CISAC.

32. In 2003, WIPO participated in three international meetings and organized four national and two training meetings, together with one advisory mission. Also, WIPO commissioned a study on the economic impact of copyright and related rights industries in an Asian country.

33. In 2004, WIPO participated in six international meetings and organized two national meetings, together with six training meetings.

[End of Annex III and document]