

1. General Information

The Asia/Pacific Cultural Centre for UNESCO (ACCU), Copyright Office of Viet Nam, Ministry of Culture and Information and Kim Dong Publishing House (KDPH) will co-organize the National Workshop for the Production and Utilization of the Vietnamese Version of “Asian Copyright Handbook” from 15 to 18 March 2005, in Hanoi, Viet Nam, in cooperation with Japan Copyright Office (JCO) of the Agency for Cultural Affairs and Viet Nam National Commission for UNESCO.

1. Background

Books are above all works of the mind, creativity and culture of people living everywhere, contributing to the enrichment of intangible heritage and intellectual properties in the region. Copyright, which protects rights of authors, illustrators and other creators by providing a legal framework, plays a crucial role in promoting their activities. It is considered that, in many countries in Asia, the importance of protecting copyright and providing basic knowledge about its functions is not fully recognized, and the interpretation of what copyright means varies greatly from country to country. There are still many countries which do not have sufficient copyright legislation to work effectively with foreign countries within the framework of international standards.

ACCU, since its inception in 1971, has been promoting copyright among publishers and creators in Asia and the Pacific through training programmes and by providing the latest information through magazines and websites. Under these circumstances, ACCU and Japan Copyright Office (JCO) produced a handbook titled “Asian Copyright Handbook” in English in 2004 for those engaged in book production such as writers, illustrators, editors and publishers in Asia, to disseminate basic information about copyright.

Furthermore, a series of workshops is also planned in several Asian countries to produce vernacular versions of the handbook and to plan a scheme for their dissemination and utilization.

In October 2004 Viet Nam ratified the Berne

Convention and officially became the 156th member. However, it is still hard for Viet Nam to implement this convention. High expenditure on royalties makes publishers anxious about increasing book prices (especially foreign works). Some video-audio centres were also disadvantaged when they had to cancel some songs, video clips or an entire album because they lacked licenses. Some terms and clauses of the Berne Convention are still strange and difficult to understand in Viet Nam because it was not disseminated widely and in depth with full information. To integrate and enforce this convention step by step and make the legal copyright framework to suit international standards, some copyright consultant centres and copyright media centres have been established such as Vietnamese Literary Copyright Centre, Viet Nam Centre for Protection of Music Copyrights since 26 October 2004. In order to seriously enforce the Berne Convention, besides its own endeavours, Viet Nam needs support in capacity-building of those copyright centres, and publishing useful guides and disseminating them.

2. Objectives

In order to promote better understanding of the concept of copyright through the handbook among the people engaged in publishing activities in Viet Nam, the workshop aims:

- 1) To introduce and promote better understanding of the handbook by reviewing a draft Vietnamese version and to identify points and sections where more explanation would be necessary for the handbook to be useful in Viet Nam
- 2) To share information about the current situation and problems regarding copyright protection in the publishing business in Viet Nam
- 3) To draft additional explanation for the points and sections identified above, which will be appended as a supplement to the Vietnamese version of the handbook
- 4) To develop an action plan, including an activity schedule and responsible organizations, for compilation, publication, distribution and utilization of the handbook in Viet Nam

3. Date and Venue

Date: 15 to 18 March 2005 (four days)

Venue: Hotel Nikko Hanoi

84 Tran Nhan Tong Street, Hanoi

Tel: (84-4)822-3535, Fax: (84-4)822-3555

4. Participants

(1) Participants: (approximately 50 persons)

- Writers and editors of the Kim Dong Publishing House and other publishing companies (one representative each from about 50 publishing companies around Viet Nam)
- Experts and administrators from organizations concerned such as:
 - Copyright Office of Viet Nam, Ministry of Culture and Information
 - Viet Nam Copyright Corporation
 - Viet Nam Publishers Association
 - Vietnam Literary Copyright Center
 - Viet Nam Center for Protection of Music Copyright
 - Recording Industry Association of Vietnam

(2) Resource Persons:

- UNESCO
- Japan Copyright Office (JCO), Agency for Cultural Affairs
- Other national and international experts

(3) Organizers

- ACCU
- Copyright Office of Viet Nam, Ministry of Culture and Information
- Kim Dong Publishing House

(4) Observers

5. Preparations by Participants

Each participant is requested to review a draft Vietnamese version of the "Asian Copyright Handbook", to prepare to share in the workshop points and sections where more explanation would be necessary for the handbook to be useful in Viet Nam, as well as ideas for effective distribution and better utilization of the handbook. The draft Vietnamese version will be provided to each participant by 15 January 2005.

6. Working Languages

English, Vietnamese, Japanese (Interpretation will be available between Vietnamese and English and

between Vietnamese and Japanese)

7. Financial Arrangements

(1) Travel:

- KDPH will bear travel expenses for participants and resource persons from Viet Nam according to its regulations.
- ACCU will bear travel expenses for resource persons from abroad according to its regulations.

(2) Board and Lodging:

- KDPH will bear costs of board and lodging including room charges, meals and other miscellaneous costs for participants and resource persons from Viet Nam according to its regulations.
- ACCU will bear costs of board and lodging including room charges, meals and other miscellaneous costs for resource persons from abroad according to its regulations.

8. Correspondence

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2. Workshop Programme

15 March 2005 (Day 1)

Open Forum on Copyright Protection in Viet Nam and International Framework (2F: Fuji A)

- 9:00-9:30 Registration
- 9:30-10:15 Opening addresses
Mr. NAKANISHI Koji,
Director-General, ACCU
Mr. Tran Chien Thang Vice Minister,
Ministry of Culture and Information
Mr. Le Manh Hung, Secretary of Central
Youth Committee
Mr. Ho Minh Tuan, Deputy Secretary-
General, Viet Nam National Commission
for UNESCO
Mr. Pham Quang Vinh, Director, Kim
Dong Publishing House
Mr. ANAZAWA Kazuo, Deputy-Director,
International Affairs Division, Japan
Copyright Office
- 10:45-11:30 ACCU presentation by Ms. OHNUKI
Misako, Director, Culture Division,
ACCU
- 11:30-12:15 UNESCO keynote speech by
Ms. Petya Totcharova, Legal Advisor,
Cultural Enterprise and Copyright
Section, Division of Arts and Cultural
Enterprise, Sector of Culture, UNESCO
- 14:00-15:00 Presentation by Mr. SATO Keita:
Professor, Chuo Law School, Chuo
University
- 16:00-17:00 Presentation by Mr. Vu Manh Chu,
Director-General, Copyright Office of
Viet Nam, Ministry of Culture and
Information
- 18:00-20:00 Welcome Reception hosted by Mr.
Nakanishi, Director-General, ACCU
(2F: Tao Li)

16 March 2005 (Day 2)

Open Forum on Copyright Protection in Viet Nam and International Framework (2F: Fuji A)

- 9:00-10:00 Presentation by Mr. YAMATO Atsushi,
Associate Professor, Yokohama National
University
- 11:00-12:00 Presentation by Mr. Vu Manh Chu,
Director-General, Copyright Office of Viet
Nam, Ministry of Culture and Information
- 14:00-14:40 Presentation by Ms. Sibylle Le Maire,
Foreign Rights & Sales Manager,
International Department, Bayard Jeunesse
- 14:40-15:20 Presentation by Mr. Nguyen Huy Thang,
Head of Scientific Book Department, KDPH
- 16:00-17:00 Presentation by Mr. DOMON Yasuo,
Director-General, Juvenile Book Department,
Kodansha Publishers Ltd.

17 March (Day 3)

Group Work Session for Production and Utilization of Asian Copyright Handbook (2F: Fuji A & B)

- 9:00-9:30 Orientation for Group Work 1
- 9:30-12:30 Group Work 1: Preparing supplementary Q&A
Section for Vietnamese version of "Asian
Copyright Handbook"
- 14:00-17:00 Continued Group Work 1

18 March (Day 4)

Group Work Session for Production and Utilization of Asian Copyright Handbook (2F: Fuji A & B)

- 9:00-10:00 Report of Group Work 1 (Plenary)
- 10:00-10:30 Orientation for Group Work 2
- 11:00-12:30 Group Work 2
- 14:00-15:00 Report of Group Work 2 (Plenary)
- 15:00-16:00 Concluding Session
- 16:00-16:30 Closing remarks
Ms. OHNUKI Misako, Director, Culture
Division, ACCU
Mr. Vu Manh Chu, Director-General,
Copyright Office of Viet Nam, Ministry
of Culture and Information
Mr. Pham Quang Vinh, Director, Kim
Dong Publishing House
- 17:00-19:00 Farewell Party hosted by Mr. Nguyen
Thang Vu, Chairman of Publishing
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3. List of Participants

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4. Opening Speeches

Opening Address by Mr. NAKANISHI Koji Director-General, ACCU

It is my great pleasure and honor to welcome all of you in this beautiful city of Hanoi, on behalf of the Asia/Pacific Cultural Centre for UNESCO, on the occasion of the opening of the National Workshop for the Production and Utilization of the Vietnamese Version of the “Asian Copyright Handbook”.

First of all I should like to express my sincere appreciation for the great efforts made by Kim Dong Publishing House, in co-organizing this workshop in Viet Nam, with the strong support of the Ministry of Culture and Information, and Vietnamese National Commission for UNESCO. My further appreciation goes to resource persons, Ms. Le Marie from France, Mr. Yamato, Mr. Sato and Mr. Domon from Japan, and Ms. Tocharova from UNESCO who have come all the way to Viet Nam to attend this Workshop.

Some of you here today will recall that in 1991, almost 14 years ago when you had started a market innovation system called Doi Moi, ACCU was invited by the Vietnamese Government to organize a national training course on book production for children at the initiatives of Kim Dong Publishing House, responding to the urgent needs at that time. After the Workshop, ACCU invited a number of Vietnamese publishing specialists to Tokyo Training Courses for book experts, as one of the follow-up activities of the 1991 Workshop. This Tokyo training course, started in 1967 in cooperation with UNESCO and the publishing industry to train book personnel in Asia and the Pacific, for the purpose of contributing to book development in the region, has so far been attended by 600 people, including some from Viet Nam.

Now I am happy to find out that there was tremendous progress in these fields in the last ten years, and I am respectful toward the Vietnamese people who devoted themselves to overcoming the

issues ahead in the 1990s.

ACCU, since its inception in 1971, has been promoting copyright among publishers and creators in Asia and the Pacific through training programmes and by providing the latest information through magazines and websites. Under these circumstances, ACCU and the Japan Copyright Office (JCO) produced a handbook titled “Asian Copyright Handbook” in English last year. Furthermore, a series of workshops is also planned in several Asian countries to produce vernacular versions of the handbook and to plan a scheme for their dissemination and utilization. Viet Nam is the first country to start this workshop.

Please allow me to take this opportunity, to briefly explain our current activities in Asia and the Pacific. Following the latest movements of UNESCO, especially the adoption of the Convention of Safeguarding Intangible Cultural Heritage in 2003, we have been placing special emphasis on the field of Intangible Cultural Heritage by adopting an innovative and strategic policy. As you might know, intangible cultural heritage unique to each region is in a crisis of transformation and disappearance now. ACCU, in response to demands by many cultural administrators, museum specialists, and other cultural experts of Member States, introduces means and know-how on intangible heritage management, through holding workshops and websites.

As you might know, this is an on-the-spot Workshop on copyright catering to the local needs and situation. Indeed, one of the lessons we gained from our experiences is that the active involvement of the respective participants and follow-up activities after the workshop in your publishing houses are the key to success. I therefore wish to invite all of you to the next four days’ active discussion.

Lastly, I should like to express my sincere thanks to Mr. Nguyen Thang Vu, Chairman of Kim Dong Publishing House, and his staff members who

have devoted themselves to the preparation of this meeting, and Mr. Anazawa, from the Japan Copyright Office for his generous support and for sponsoring this programme. ACCU will try our best to make use of valuable inputs from this Workshop in our own regional programme activities.

I would like to wish that all of you may enjoy your stay here, and wish this workshop a tremendous success.

**Opening Address by Mr. Tran Chien Thang,
Vice Minister of Culture and Information
(Translated summary of the speech made in
Vietnamese)**

I would like to thank ACCU and Kim Dong Publishing House for organizing this workshop with the Copyright Office of Viet Nam, Ministry of Culture and Information. I would also like to thank the Japan Copyright Office, Agency for Cultural Affairs and Viet Nam National Commission for UNESCO for their support.

I sincerely hope that the participants will discuss many urgent issues surrounding copyright in Viet Nam, and that those discussions will be reflected in the Vietnamese version of the handbook in order to make it useful in Viet Nam.

I believe that the workshop will produce fruitful results, contribute to the protection of copyrights in Vietnam, and create favorable environment for creators.

**Opening Address by Mr. Le Manh Hung
Secretary of Central Youth Committee
(Translated summary of the speech made in
Vietnamese)**

On behalf of the Central Youth Committee, I would like to welcome you all to this workshop and hope it will be a great success. At the Central Youth Committee, we are fully aware that publishing division is indispensable for the committee. With its functions and tasks, publishing is an important tool and means of

education for the youth unions, juvenile groups and national teenager's movement.

The Central Youth Committee, during the past many years, has carried out various measures to promote their roles and to renew the activities of publishing division inside the committee. It is affirmed that almost all the works published by the committee have improved in terms of content and illustration, and are welcome by teenage groups nationwide. This is attributable to the efforts of the division staff, Kim Dong Publishing House and Youth Publishing House.

We always have high appreciation for the effective and active assistance of ACCU in the field of publishing books for the children in the past 14 years. This workshop is a vivid evidence.

Within the framework of this Workshop, the issue of raising publishers' awareness on copyright by disseminating and utilising the handbook is a topical issue and suitable to Viet Nam's condition.

For the Central Youth Committee, the governing unit of Kim Dong Publishing House, we totally support the workshop by creating favorable conditions for publishing agencies in Viet Nam to participate in the workshop for the production and utilisation of the Handbook.

Publishing agencies in Viet Nam are now facing many challenges such as competition with foreign publishers, digital information, and consumers' higher expectation.

We hope that we would attract more readers by improving the quality of the publications by focusing on training editors and reporters as well as continuing to invest in modern facilities and equipments for our publications.

**Opening Address by Mr. Phạm Quang Vinh,
Director of Kim Dong Publishing House**

From the outset, on behalf of Kim Dong Publishing House, a co-organizer of this workshop and nearly 50 agencies engaged in publication,

circulation and copyright business in Viet Nam, I would like to extend my sincere thanks to the leaders of Ministry of Culture and Information and affiliated agencies, the Central Committee of Vietnam Youth Union and UNESCO National Committee of Vietnam for your assistance. Your attendance at this workshop today augurs a great success and presents strong spiritual support to all participants.

My thanks also go to Mr. NAKANISHI Koji, General Director of Asia/Pacific Cultural Centre for UNESCO (ACCU), Ms. OHNUKI Misako, Head of the Cultural Affairs Department, and other colleagues for your endless efforts during the last 34 years to promote the development of culture and education as well as cultural exchange in Asia Pacific countries, including Viet Nam. Since 1991, ACCU have rendered support and assistance for Viet Nam's publishing industry through training programs of experts in publication, library, and circulation and numerous programs to introduce children books on environment, and friendship between nations and Asian countries.

As a part of concerted efforts that ACCU has made since its foundation to improve public awareness of copyright, in 2004, "Asian Copyright Handbook" was finalized in English to be translated into different languages and circulated for free in many Asian countries as a tool for copyright experts, editors, poets, authors, painters and others working in the field of publication and literary and artistic creation. Viet Nam is honored to be selected as the country where the initiative is first implemented.

Against that background, our workshop plays an important role with a view to seeking comments on the handbook's contents, supplementing aspects applicable and appropriate for Viet Nam's situation as well as figuring out ways and means to make the handbook most useful in our country.

I am particularly glad that this program has received active support from Japan Copyright Office (JCO), and that Mr. Anazawa, senior official of JCO also attends the opening ceremony

today. I would also like to thank Ms. Petya Totcharova, an UNESCO representative, Prof. SATO Keita, Prof. YAMATO Atsushi, Ms. Sibylle Le Maire and Mr. DOMON Yasuo, our speakers for your interesting and informative presentations, which, we hope, would be helpful for Vietnam's publishing industry at present.

On Vietnam's side, I would like to thank Copyright Office of Viet Nam, a co-organizer for your active support. With your profound knowledge and experience, Director Vu Manh Chu and his colleagues have worked closely with us during preparation for the workshop.

Finally, I take this opportunity to express deep gratitude to publishers, copyright centers and professional associations in the area of arts and culture. I am convinced that the Vietnamese version of "Asian Copyright Handbook", our shared intellectual creation as a product of this workshop, will be most welcomed in our country.

"Japan's Copyright Strategy and International Trends" by Mr. ANAZAWA Kazuo, Deputy-Director, International Affairs Division, Japan Copyright Office (JCO), Agency for Cultural Affairs, Government of Japan

I am honored to have this opportunity to speak today at this, the National Workshop for Production and Utilization of the Vietnamese Version of the "Asian Copyright Handbook."

As you know, copyright protection serves as a foundation for cultural advancement. In the interest of fostering copyright protection, it is extremely important that each and every citizen has a heightened awareness and understanding of copyright related issues.

In view of that importance, Japan's Agency for Cultural Affairs, with which I am affiliated, has been engaged in a variety of undertakings that are aimed at boosting the Japanese public's awareness of copyright-related issues.

Besides, in order to contribute to developing

public awareness of copyright in Asian countries, we have started this project in coordination with the ACCU. I am especially delighted that this first workshop is being held here in Hanoi with the cooperation of Vietnamese institutions and officials concerned.

I would now like to move to my presentation on the theme, "Japan's Copyright Strategy and International Trends."

I will begin with a discussion of Japanese copyright policy and strategy pertaining to intellectual property rights.



First, I want to focus on background factors that encouraged Japan to attach more importance to having a strategy for intellectual property rights. Up until the 1980s, Japan ensured its status as one of the world's leading economic powers by assimilating advanced technologies from the West and building manufacturing systems for the mass production of inexpensive yet high-quality goods with a hard-working and highly skilled labor force.

However, conditions changed drastically in the 1990s and thereafter. Japanese industry began to suffer a gradual decline in its international competitiveness. Some observers have ascribed this to a certain infatuation with Japanese business models and the history of Japan's economic success, with a resultant inability to pursue bold measures in reform.

Today, we face the necessity of selecting industrial sectors that are internationally

competitive and placing priority on their advancement. In the meantime, the value-added created by knowledge has grown in importance as never before.

Priority has shifted to competition for the provision of goods and services that differentiate one from one's rivals, with technological innovations for that purpose gaining more and more importance in the process. Achieving sustainable economic growth demands that Japan move forward with bold steps in the arena of reform. Additionally, though, it must develop mechanisms that facilitate sustained efforts in reform.

To that end, Japan has faced the unavoidable task of cultivating its image as a nation committed to building a robust society through the creation, protection, and utilization of intellectual property.

Japan's Economic Circumstances

1980's Gain in economic power

- Advanced technologies
- Mass production with high quality and cheap price

1990's Decline in the power

- Inability to reform the current situation (Japanese model)
- A delay of identifying globally competitive industry segments and shifting its resources to these fields

Present

- Needs
- Radical reform
- To create, protect and use intellectual property

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On this understanding, in February 2002 Prime Minister Junichiro Koizumi delivered a policy statement in which he declared, as a national goal, that efforts would be made to strategically protect and utilize the achievements of research and creative endeavor as intellectual property, and thereby reinforce the international competitiveness of Japanese industry.

The Basic Law on Intellectual Property was enacted in November 2002. Based on that law, in March 2003 the government launched its Intellectual Property Strategy Headquarters, an organization assigned the mission of promoting intellectual property strategy on a national scale.

This led to the establishment, in July 2003, of an

Intellectual Property Strategic Program, which has one function of serving as a strategy implementation schedule.

The climate affecting intellectual property in Japan has continued to evolve relentlessly, thus necessitating constant revisions to the Intellectual Property Strategic Program. For that reason, in May 2004 the government inaugurated an updated successor, the Intellectual Property Strategic Program 2004.



The Intellectual Property Strategy Headquarters that I just briefly mentioned has the mission of promoting a unified government strategy for intellectual property, and on that basis coordinates with other government offices directly concerned. Prime Minister Koizumi serves as its Chairman, and its vice-chairpersons' posts are served by the Chief Cabinet Secretary, the Minister of Science and Technology Policy, the Minister of Education, Culture, Sports, Science, and Technology (the ministry with which the Agency for Cultural Affairs is affiliated), and the Minister of Economy, Trade, and Industry.

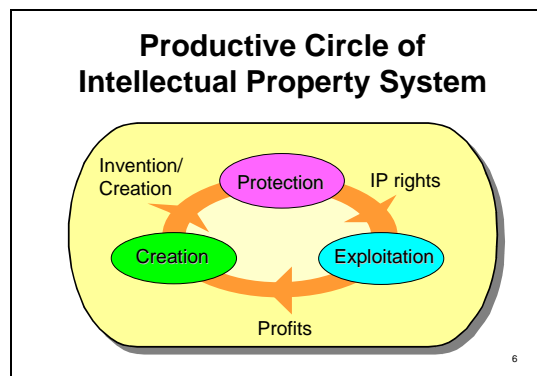
All other state ministers are also members, as are a number of experts from industrial and academic sectors with professional expertise in intellectual property-related affairs.

The Intellectual Property Strategic Program formulated by the Intellectual Property Strategy Headquarters incorporates an array of initiatives for the creation, protection, and utilization of intellectual property.



To effectively harness intellectual property resources and contribute to increases in national wealth, it is crucial that the sectors involved in research and development and content creation cultivate high-quality intellectual property, that protective rights to that property be promptly acquired, and that this property be utilized by the industrial sector.

If this process is firmly established, it will contribute to expanded industrial reproduction with the resultant generation of a virtuous circle of intellectual property creation.



Next I would like to focus on the provision of stimulus to the content business. Under the Intellectual Property Strategic Program, heavy emphasis has been placed on energizing the content business, a sector that is involved in the handling of numerous copyrighted works.

The scale of the content business in Japan has already reached about 100 billion dollars in the entertainment industry alone. At the global level, the content business is expected to expand at a strong pace that exceeds the real growth rate for

global GDP. It is anticipated that this growth pace will be even steeper in the Asia-Pacific region.

Many animated films and computer game software packages developed in Japan have already earned exceptionally strong acclaim at the international level. Moreover, people in numerous countries around the globe now enjoy Japanese films, TV dramas, and music.

The Intellectual Property Strategic Program includes a chapter devoted to the sweeping expansion of the content business. That chapter incorporates an array of stimulus initiatives for the content business, from the cultivation of human resources and development of the legal system to facilitation of distribution aimed at spurring market expansion. This in turn prompted the government last year to enact the Law concerning Promotion of Creation, Protection, and Exploitation of Content.

Vitalization of the Content Market

To improve the Japanese economy in the near future

- Faster growth e.g. \$100 billion (Entertainment)
- Great reputation

Activities under the rapid development of content business

- The development of human resources for the creation of attractive content
- The establishment of a legal system for protection of these products
- The facilitation of distribution systems for market expansion

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Let me turn now to the topic of copyright policy. At the Agency for Cultural Affairs, it is our view that steps to develop legal rules (including expansion of the system for judicial relief), facilitate smooth distribution, address international issues, and improve copyright education are all areas that demand a strategic response within the context of copyright policy.

To foster initiatives in these areas, the Agency has been drafting copyright-related policies and legislative bills based on the findings of its Council for Cultural Affairs-affiliated Subcommittee on Copyrights, a body of experts in copyright-related matters that includes legal professionals as well as representatives for various

copyright-related organizations.

Mr. Yamato will cover the Japanese copyright system in detail tomorrow morning, so, to avoid redundancy, I will not discuss any system specifics here. However, I would like to briefly discuss the Japanese approach to various international issues.

Strategic Objectives of Copyright Policy

Purposes for the strategic objectives

To have people acquire knowledge of copyright
To develop a copyright contract system easily available to people

Strategic objectives

- 1) Development of legal rules
(including Improvement of enforcement systems)
- 2) Promotion of lawful/safe circulation
- 3) **International issues**
- 4) Improvement of education

The JCO plans these policies respecting expert discussions on the Subdivision on Copyrights under the Agency's Council for Cultural Affairs

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The Agency for Cultural Affairs has sponsored various training programs and seminars in countries throughout the Asia-Pacific region as part of its effort to contribute to the cultivation of human resources and legal frameworks for the copyright field. Many persons from Vietnam have participated in these undertakings.

In addition, it has launched a program aimed at improving public awareness of copyright-related issues in these countries, and has entrusted the ACCU with program implementation. Today's workshop is the first in that series.



Furthermore, our Agency has been actively involved in international talks devoted to the conclusion of copyright-related treaties and

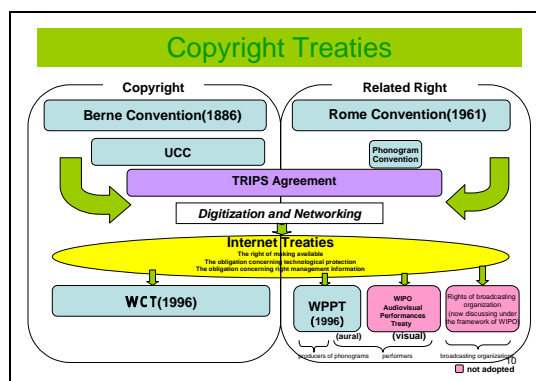
treaties for the protection of folklore and cultural diversity. I would like to discuss these undertakings now.

As you know, the Berne Convention was adopted in 1886. It was drawn up from the standpoint of bringing about international harmony on copyright matters as the international flow of cultural and artistic expression proliferated. This treaty was followed later by the adoption of additional treaties, including the Universal Copyright Convention, which was designed to serve as a bridge between countries that required the formality of copyright registration on the one hand, and on the other, the signatory countries to the Berne Convention, which embraced non-formality as one of its principles; the Rome Convention, which protects performing artists, record producers, and broadcasters as parties with related rights; and the Phonogram Convention, which seeks to protect music records from acts of piracy.

In the meantime, economic losses stemming from the heavy trade in illegal goods became an increasingly serious problem in the second half of the 1970s. To address that problem, the TRIPS Agreement was signed as an addendum to the treaty establishing the World Trade Organization.

Years later would bring adoption of the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT), which sought to accommodate the trends toward the digitization and networking of information. Currently, discussions concerned with the signing of an audiovisual performances treaty and broadcasting treaty are under way within the World Intellectual Property Organization (WIPO).

Japan's Agency for Cultural Affairs has been encouraging increased participation in the treaties that many countries already have in force, and has also been actively engaged in the WIPO discussions concerned with the audiovisual performances treaty and broadcasting treaty.



I would like now to briefly discuss the talks underway within WIPO on these two treaties. The draft version of a new treaty for the protection of audiovisual performances was announced in August 2000 and placed on the agenda for discussion at a diplomatic conference in December that year. It comprised 20 articles, and agreement had been reached on all but one, about which the U.S. and EU remained divided. As a result, the treaty failed to win adoption.

The article at the center of contention had to do with the transfer of rights. The U.S. wanted to extend to other countries the contract-based transfer of performers' rights by film production companies in Hollywood. The intent here was to have the rights of performers worldwide transferred to film producers. However, some countries within the EU were opposed to this article on grounds their domestic laws did not allow the transfer of rights in this way.

This issue has remained a focus of negotiations by all parties concerned since then, and is scheduled to be on the agenda for discussion at the WIPO General Conference this year.

New Treaty concerning the Protection of Audiovisual Performances

[Background]
Diplomatic conference (2000)
 US and EU were divided over the article concerning the transfer of performer's right
 (Member States reached the agreement on the other 19 draft articles)

[Points of Discussion]

EU has legislation that forbids the transfer of rights

US has desire to make an international treaty guarantee the transfer of the rights of performers

No specific solution

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Discussions concerning a new broadcasting treaty have centered on three key issues, as follows. One issue has to do with whether the new treaty will cover cable-casting and web-casting operations. A second issue of contention is whether protections provided by the treaty will extend to the signals that precede public broadcasts. This has to do with the question of how one would deal with internet broadcasts of content copied from an intermediate source, for instance, by someone intercepting commercial broadcasts relayed from a soccer stadium to a television station. The third issue has to do with whether broadcasters should be provided with rights of decryption as a measure against the unauthorized decryption of satellite or cable TV programs that are currently broadcast in encrypted or scrambled form so they cannot be viewed for free by anyone other than service subscribers. Discussions concerning these issues are scheduled to continue under the WIPO framework.

New Treaty concerning the Protection of Broadcasting Organizations

[Main Issues]
the scope/ definition of "broadcasting"
(treatment about cablecasting, webcasting and so on.)
treatment about signals prior to broadcasting
treatment about decryption of encrypted broadcasts
(the exclusive right or the obligation concerning technological measures)

[Conference Schedule]
1997 - the treaty have been under consideration in the framework of SCCR
2005 Diplomatic conference (?)

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Now let me turn to the topic of protecting folklore. Folklore includes creations that have been developed and passed down from generation to generation, and that are intrinsic to the cultural heritage of a regional community: for example, folktales, folksongs, folkdances, theatrical performances, paintings, carvings, sculptures, and so forth.

Upon conclusion of the new WIPO treaties (the WCT and WPPT) by a WIPO diplomatic conference in 1996, the view was expressed that deliberations should be initiated on another treaty to be concerned with the protection of folklore. This subsequently prompted an intense and enthusiastic debate within WIPO regarding ways

to protect folklore.

In the context of protecting folklore, from a logical standpoint the question arises as to whom folklore rights should be assigned. In my view, this in turn entails a variety of additional issues that must be resolved. For example, when we are dealing with a relatively broad geographic region, in what context should we frame a folklore-related issue? In terms of City A, City B, or, if on an even larger scale, as an issue that transcends national boundaries? Further, must the permission of local inhabitants be granted when folklore is to be utilized in some way? Or, is it adequate to simply cite the sources of that folklore? Also, is it necessary to grant rights to compensation or rights of some other kind when folklore is to be utilized? On top of this, in my view it seems imperative that consideration also be devoted to how folklore should be protected within the context of existing frameworks, such as systems for the protection of intellectual property or cultural assets.

Whatever their outcome, it is my understanding that continuing discussions centering on the folklore issue will be pursued by future WIPO and UNESCO forums.

Protection of Folklore

**"North- South" problem
in WIPO as well as WTO**

- Heated discussion since WCT and WPPT are signed
- Involve the protection of genetic resources and traditional knowledge as well as folklore

Developing countries' demand:
These resources should be protected
as Intellectual Property

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Now allow me to discuss the progress of UNESCO deliberations on a treaty for the protection of cultural diversity.

At its general conference in 2003, UNESCO resolved to launch deliberations on a treaty for cultural diversity and present a draft of that treaty at its general conference in 2005. At present, discussions within UNESCO have been focused on the specifics of that draft treaty.

As one of the 24 member countries on the drafting committee, Japan has been actively engaged in those discussions.

During negotiations at the GATT Uruguay Round in 1993, opinions were voiced both in favor of and against the idea of excluding music, films, and other cultural assets and services from the scope of WTO free trade rules under the General Agreement on Trade in Services (GATS). Ultimately, common ground on the issue remained out of reach, resulting in something of a vague settlement.

Although WTO negotiations are slated to continue in the Doha Round with the aim of reaching a conclusion in 2005, currently they are deadlocked. However, to keep cultural diversity outside the scope of WTO rules, there is the option of utilizing a non-WTO forum—namely, UNESCO—to draft a new international treaty that recognizes the right of individual countries to implement a variety of measures shaped primarily by the perspectives not of free trade, but of protecting cultural diversity.

Treaty on Cultural Diversity

[Background]

- **UNESCO meeting in Paris (2003)**
France proposed to establish a treaty for protecting cultural diversity
(France and some countries apply a quota system for their film industry)
- **WTO is keen to eliminate trade barriers**

[Schedule]

2005 UNESCO will present a draft treaty on cultural diversity

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That concludes my presentation today. May this workshop be a resounding success.

5. Photographs



Mr. Tran Chien Thang, Vice Minister, Ministry of Culture and Information



Mr. ANAZAWA Kazuo, Deputy-Director, International Affairs Division, Japan Copyright Office, Agency for Cultural Affairs



Mr. NAKANISHI Koji, Director-General, ACCU



Plenary Session



From left to right, Mr. Vu Manh Chu, Director-General, Copyright Office of Viet Nam, Ministry of Culture and information, Mr. Nakanishi, Mr. Nguyen Thang Vu, Chairman of Publishing Council, Kim Dong Publishing House, Mr. Pham Quang Vinh, Director, Kim Dong Publishing House.



Ms. Petya Totcharova, Legal Advisor, Cultural Enterprise and Copyright Section, Division of Arts and Cultural Enterprise, Sector of Culture, UNESCO



Mr. SATO Keita, Professor, Chuo Law School, Chuo University



Mr. YAMATO Atsushi, Associate Professor, Yokohama National University



Participants closely observing sample books and magazines



Mr. DOMON Yasuo, Director-General, Juvenile Book Department, Kodansha Publishers Ltd



Group Work (Group A)



Group Work (Group B)



Ms. OHNUKI Misako, Director, Culture Division, ACCU



Ms. Sibylle Le Maire, Foreign Rights & Sales Manager, International Department, Bayard Jeunesse