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AGENDA ITEM 4: PROTECTION OF THE RIGHTS OF BROADCASTING
ORGANIZATIONS

SUBMISSION BY CAMEROON*

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PROPOSALS BY CAMEROON FOR THE PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

The Cameroonian legislation on copyright and rights neighboring on copyright, adopted on August 10, 1990, provides for the protection of the rights of broadcasting organizations.

That protection, described in broad outline below, is to a large extent consistent with the spirit of the 1961 Rome Convention, which has itself been overtaken by the rapid progress of technology.

I. STATE OF CAMEROONIAN LEGISLATION ON THE PROTECTION OF BROADCASTING ORGANIZATIONS

Cameroonian Law No. 90/010 of August 10, 1990, on Copyright and the Rights Neighboring on Copyright deals with the matter of the protection of the rights of broadcasting organizations in its Articles 39, 49, 76, 77 and 84.

The Law grants to those broadcasting organizations known as “audiovisual communication enterprises” the right to authorize or prohibit:

- the reproduction of programs;
- the making available to the public of programs by means of sale, rental or exchange;
- television broadcasting;
- communication to the public in a place accessible to it against payment of an admission charge.

The above Law does nevertheless allow certain exceptions: broadcasting organizations may not prohibit:

- reproductions reserved strictly for the private use of the person making them, and not intended for collective use;
- the dissemination, even in their entirety as news items, of speeches intended for the public at political, administrative, judicial or academic assemblies, and also those given at public meetings of political character and at official ceremonies.

Broadcasting organizations are in addition allowed to use their own facilities to make ephemeral recordings of works in one or more copies, which they are then allowed to broadcast.

The term of protection of the rights of broadcasting organizations, which is 50 years, goes beyond that provided for in the Rome Convention.

II. PROPOSALS FOR THE STRENGTHENING OF THE INTERNATIONAL PROTECTION OF BROADCASTING ORGANIZATIONS

Cameroon supports the proposal put forward by many countries with a view to the strengthening of the rights of broadcasting organizations. The progress made in technology is such that there is now a serious need for a new international instrument, applicable to all countries party to it, which should deal with the following issues:

(a) Nature of the Instrument

The new instrument should be in the form of a Protocol like the Berne Protocol.

(b) Definitions

Certain expressions and concepts deriving from the progress of technology and deserving international protection should be clearly defined, including:

- satellite;
- encrypted satellite signals;
- communication to the public by satellite;
- cable retransmission;
- terrestrial broadcasting and satellite broadcasting;
- digital networks;
- program-carrying signals.

(c) Organizations Protected

The protection of broadcasting organizations should extend not only to cable distribution organizations that distribute their own programs by cable, but also to signals transmitted by satellite.

Moreover, a general right of communication should be recognized to cover communication by interactive transmission.

(d) Rights Granted

Cameroon endorses the proposals concerning the exclusive right of broadcasting organizations to authorize or prohibit the acts specified in paragraph 59 of the International Bureau memorandum (document SCCR/1/3 of September 7, 1998).

In the case of cable distribution organizations, we propose that those which distribute their own programs be entitled to the rights granted to broadcasting organizations.

Program-carrying signals should also be given protection. They should not be received by broadcasting organizations for which they are not intended, on pain of civil or criminal sanctions or both, depending on the seriousness of the infringement.

(e) Exceptions

The “permitted exceptions” of Article 15 of the Rome Convention should be retained in the new instrument.

(f) Term of Protection

Cameroon proposes that the term of protection should be extended to 50 years counted from the date on which the program was broadcast.

(g) Points of Attachment

Those written into Article 6 of the Rome Convention should apply.

(h) Sanctions for Violation of Rights

Cameroon proposes the inclusion in the instrument of strong criminal provisions to discourage the pirating of both broadcast and televised programs, or that of encrypted program-carrying satellite signals.

Civil sanctions should also be contemplated.

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