



Committee on Copyright and other Legal Matters (CLM)

Country Report South Africa

Annual report to the IFLA CLM Committee
Seoul, South Korea, 2006

Copyright legislation

In 2004, the Print Industries' Cluster Council (PICC) of South Africa produced a Report on publishing which recommended that the copyright laws be made stricter and that stronger enforcement measures, including presumption of ownership, be included in the law. This document was commissioned by the SA Department of Arts and Culture. In 2005, the PICC drafted a National Book Policy which included similar recommendations.

In January 2005, the Department of Arts and Culture, the National Council for Libraries and Information Services (NCLIS) and the SA National Library Blind held a conference in Port Elizabeth, South Africa, to discuss access problems related to the print-handicapped. It was agreed that a Working Group should be established between the Department of Arts and Culture and the Department of Trade and Industry to draft proposals to amend the Copyright law to include provisions for the sensory-disabled. This has not yet been established.

Since reporting to the CLM in Oslo, 2005, there has not been **any** change to our Copyright legislation.

Currently, the South African Government is undergoing a review of all legislation. To address how copyright impacts on the National Library of South Africa Act, the SA Library for the Blind Act, the Legal Deposit Act and National Council for Libraries and Information Services Act (all administered by the Department of Arts and Culture), a Consultative Workshop for all stakeholders was held in Pretoria on 20-21 July 2006. At this workshop, I gave a presentation on "International trends in copyright" and recommended inclusion of TRIPS flexibilities and amendments to the Copyright law and amendments to other Acts, where access to information and/or library functions are being hampered. Final recommendations from the workshop will now be put forward to the relevant Ministries to review the Copyright law, the first three Acts mentioned above, as well as the Electronic Communications and Transactions Act and Competition Act.

Legal Deposit

I have been appointed as a member of the Ministry of Arts and Culture's Legal Deposit Committee for the period 2006-2008. I attended its inaugural meeting on the 25 July 2006, when various issues relating to legal deposit material (including broadcasts and electronic media) and access to information were discussed. The Legal Deposit Act is one of the Acts which will be recommended for review, as a result of the abovementioned Consultative Workshop, with particular reference to copyright and how it impacts on digitization and preservation.

Public Lending Rights

At a rights-owners' Copyright Lekgotla (seminar), held at the Cape Town Book Fair on 19 June 2006, the Secretary-General of the Norwegian Writers and Translators Association (NFF) promoted Public Lending Rights (PLRs) for South Africa. As PLRs are not

appropriate at this stage of South Africa's transformation and development, I have brought the matter to the attention of our Library Association of South Africa (LIASA). I also expressed concern about PLRs at the abovementioned Consultative Workshop, where representatives from the library, education and publishing sectors were present, as well as representatives from the Department of Arts and Culture, Department of Trade and Industry and Dept. of Education.

Trade agreements

Since 2003, South Africa, together with Botswana, Namibia, Swaziland and Lesotho, (under the Southern African Customs Union) has been under pressure to sign a Free Trade Agreement with the United States, which contained an IP Chapter with TRIPS-Plus provisions. The U.S. Trade Representative's mandate was to finalize all bilateral trade agreements before December 2006. Due to substantive differences between the U.S. and the Southern African Customs Union, on various issues, including IP Rights, the U.S./SACU Free Trade Agreement has been placed on the 'backburner'. SACU will now continue discussing various trade and investment options with the U.S., but will not enter into a formal Free Trade Agreement with the U.S.

WIPO Development Agenda

The SA Department of Trade and Industry, as a member of the "Friends of Development" and the "Africa Group", has been supporting the Development Agenda at WIPO. During 2005 and 2006, SA Government officials attended the various DA meetings in Geneva.

Lobby activities

There are a number of local and regional civil society groups and NGOs addressing issues around access to knowledge. Unfortunately, there is no consolidated action or lobby relating to copyright matters at present. On a personal/institutional level, I have been communicating with, and forwarding relevant documentation to, various Government departments on matters relating to access to information, copyright, IP Chapter in FTAs, Open Access, WIPO and WTO matters, etc. On my recommendation, the Higher Education of SA (HESA) wrote to the Department of Trade and Industry, expressing concern about the IP Chapter in Free Trade Agreements.

I have given various copyright presentations to promote adoption of TRIPS flexibilities in developing countries and to highlight concerns about restrictive copyright laws, TRIPS-Plus in FTAs, open access initiatives, etc, in South Africa and a number of African countries, as well as at the eIFL.net General Assembly in Lithuania in October 2005 and eIFL.IP's workshop in Uganda in November 2005. I spearheaded the establishment of the African Access to Knowledge Alliance (AAKA), which was established at the African Copyright Forum conference, held in Uganda in November 2005. This conference was co-sponsored by IFLA Africa Section and the Commonwealth of Learning. This Alliance will work closely with eIFL.IP to address copyright matters in Africa. I am currently involved in an access to knowledge project with the Open Society Institute for Southern Africa and iCommons and have recommended that they hold various workshops in South Africa to sensitize people about copyright issues, open access initiatives and other related topics. I am a member of the Commonwealth of Learning's IP project and assisted in one of their regional IP workshops, organized by the Southern Africa Research Development Centre (SARDEC), held in Pretoria in February/March 2006.