The international regulatory framework for intellectual property rights has been strengthened by the conclusion of the Uruguay Round of the General Agreement for Tariffs and Trade (GATT) and the establishment of the World Trade Organization (WTO). In terms of copyright, the new regulatory framework calls for all member countries to comply with the substantive provisions of the Berne Convention (1971) for the protection of literary and artistic works, but it does not require the observance of moral rights. The agreement enhances the monitoring capacity and enforcement capabilities on a global scale. Many of the countries which were not party to the Berne Convention have been brought into copyright law under the WTO framework. Thus, for the first time in International Law, member states are to provide within their national law effective procedures and remedies for the enforcement of intellectual property rights, either through the normal civil judicial process or through other appropriate measures. The main additions to the area of copyright as it relates to music and related rights (e.g., neighbouring rights) are:

1. Provisions that require authors and composers of sound recordings to be given the right to authorize or prohibit the commercial rental of their works to the public

2. Provisions that require performers to be given protection from unauthorized recording and broadcast of live performances (e.g., bootlegging)

3. The protection for performers and producers of sound recordings have been expanded from a prior minimum of 20 years under the Rome convention to no less than 50 years.

4. Provisions that require that broadcasting organizations would have control over the use that can be made of broadcast signals without their authorization, for at least 20 years.

The benefits to the music industry from these additions to international copyright law could be significant. Music recordings are very prone to international piracy and other forms of copyright infringement. Piracy is quite common in countries where copyright legislation is scant and weakly enforced. It is estimated that the global market for pirated CDs and taped cassettes was worth US$2.2 billion in 1994 and amounted to 6 percent of the global turnover of $35.5 billion (IFPI 1996).

Copyright protection and collections are administered through copyright societies. The main international societies are the American Society of Composers, Authors and Publishers (ASCAP) and the Broadcast Music Inc. (BMI) of the USA, the Performing Rights Society (PRS) in the UK and the Society of European State Authors and Composers (SESAC). The various national societies are members of CISAC (Confédération Internationale des Sociétés d'Auteurs et Compositeurs). The operations of these organizations provides a legal and business framework for the protection of authorship, uniqueness and reproducibility against copying and piracy as well as for the commercial exploitation of copyright through licensing fees and royalties. Collections by main societies have grown appreciably in the last few years. For example, ASCAP collections have risen from US$297 million in 1988 to $386 million in 1993 and PRS has moved from £35 million in 1989 to £53.7 million in 1993 (Krasilovsky and Shemel 1995: xxiii; Feist 1995: 15). These earnings are likely to grow in coming years as a new infrastructure is being established by CISAC (the Common Information System) to increase the efficiency of usage monitoring, data processing, information exchange, and income reporting and distribution between societies and their members.

The emergence of digital recording technologies and products (digital audio tape (DAT)) that enable a diffusion of authorship and easy reproduction without any noticeable loss of quality have created a major challenge to the music industry
with the escalation of piracy, sampling, bootlegging and counterfeiting. Some of these threats have been quelled because some of the major consumer-electronic firms have invested in recording companies. For example, Sony purchased CBS Records in 1988/89 and Matsushita Electric Industrial Co. acquired MCA Inc. in 1989 (UNCTAD/ILO 1995: 27). As a result, they have restricted the diffusion of DAT consumer products. In the US, the passage of the Audio Home Recording Act of 1992, which places a levy on DAT tapes and equipment, has eliminated some of the initial fear.

The likely impact of the new copyright laws and the trends in the marketplace on developing countries can be summarized as follows:

1. additional administrative and enforcement costs
2. increased payments for foreigners’ proprietary artistic work
3. price increases associated with greater market power for copyright producers
4. enhanced protection and collection of copyright royalties for developing countries.

REFERENCES