

Copyright

Monthly Review of the United
International Bureaux for the Protection
of Intellectual Property (BIRPI)

5th year - No. 11

November 1969

Contents

	Page
INTERNATIONAL UNION	
— Interunion Coordination Committee. Seventh Session (Geneva, September 22 to 25, 1969)	211
— International Copyright Joint Study Group. First Session (Washington, September 29 to October 3, 1969)	214
INTERNATIONAL ACTIVITIES	
— International Federation of Musicians (FIM) (7 th Ordinary Congress, Nuremberg, September 8 to 12, 1969)	230
— Max Planck Institute, Munich (Working Session, September 22 to 24, 1969) . .	231
NEWS ITEMS	
— Cyprus. Signature, with reservation in respect of ratification, of the European Agreement concerning Programme Exchanges by Means of Television Films, of the European Agreement on the Protection of Television Broadcasts, and of the Protocol to the said Agreement	231
CALENDAR	
— BIRPI Meetings	232
— Meetings of Other International Organizations Concerned with Intellectual Property	232

© BIRPI 1969

Any reproduction of articles and translations of laws, published in this periodical, is authorized only with the prior consent of BIRPI

INTERNATIONAL UNION

Interunion Coordination Committee

Seventh Session

(Geneva, September 22 to 25, 1969)

Note *

Composition

The Seventh Ordinary Session of the Interunion Coordination Committee (hereinafter referred to as « the Committee ») was held at Geneva from September 22 to 25, 1969.

The 27 members of the Committee were represented: Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Denmark, France, Germany (Federal Republic), Hungary, India, Iran, Italy, Japan, Kenya, Mexico, Morocco, Netherlands, Poland, Portugal, Rumania, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America.

The following ten States were represented by observers: Algeria, Canada, Cuba, Czechoslovakia, Finland, Holy See, Ireland, Israel, Norway, Yugoslavia.

The list of participants follows the present Note.

Mr. A. Fernandez Mazarambroz (Spain) was elected Chairman; Mr. M. Couto (Brazil) and Mr. T. Jarno (Poland) were elected Vice-Chairmen. Dr. Arpad Bogsch, First Deputy Director, BIRPI, acted as Secretary of the Committee.

BIRPI Activities

The Committee noted with approval the reports concerning the activities of BIRPI since the last ordinary session (September 1968) of the Committee.

Finances of 1968

The Committee noted with approval the reports concerning the finances of BIRPI in the year 1968.

UPOV

The Committee was informed of the imminent conclusion of arrangements tending to establish close technical and administrative cooperation between BIRPI and the International Union for the Protection of New Varieties of Plants, henceforth to be designated as UPOV (this designation is derived from the first letters of the words constituting the name of that Union in French: « *Union pour la protection des obtentions végétales* »). Under these arrangements, the Director of BIRPI and the Secretary General of the Bureau of UPOV must be the same person, the Bureau of UPOV will be located in the same building as the Headquarters of BIRPI, and BIRPI will provide — against reimbursement — most of

* This Note was prepared by BIRPI on the basis of the documents of the session.

the administrative services needed by the Bureau of UPOV. However, all activities concerning substantive aspects of the protection of new varieties of plants will be carried out by a separate Department, exclusively under the jurisdiction of UPOV, and directed by the Vice-Secretary General of the Bureau of UPOV.

BIRPI Headquarters Building

The Committee was informed that the Genevese authorities are ready to grant a long lease to BIRPI of a piece of land adjacent to that on which the present headquarters building stands for the purpose of erecting a prolongation or an annex to the present building.

The Committee established what is to be known under the name of the *Headquarters Building Subcommittee* to advise the Director of BIRPI on evaluating the needs of BIRPI and WIPO for the next ten to fifteen years as far as office, conference and related premises and facilities are concerned, on the best methods of meeting those needs by construction on the piece of land referred to above, and on the financing of such construction.

Staff Matters

The Committee noted with approval several changes or proposed changes in the Staff Regulations and Rules and a proposal of the Director of BIRPI to promote Mr. K. Pfanner, Head, Industrial Property Division, to the rank of Senior Counsellor.

Decoration Conferred on the Director by Sweden

The Committee decided to suggest to the Supervisory Authority that Professor G. H. C. Bodenhausen, Director of BIRPI, be authorized to accept the decoration of Grand Officer of the Royal (Swedish) Order of the Polar Star.

Retention in Active Service of Professor Bodenhausen

The Committee decided to recommend to the Supervisory Authority that, waiving the age-limit that otherwise would be applicable, it retain Professor Bodenhausen in active service until the end of 1972, it being understood that this recommendation implied no opinion on what should be done beyond that date.

Program and Budget for 1970

The Committee noted with approval the draft program and budget for 1970 as presented to it.

The outstanding features of the program for 1970 are the following:

as far as the Paris Union is concerned: continuation of technical-legal assistance to developing countries (traineeships, publication of the model law on industrial designs for developing countries, cooperation with various organs of the United Nations particularly in so far as transfer of technology to developing countries is concerned); plans for holding a diplomatic conference for the adoption of the proposed Patent Cooperation Treaty and another diplomatic conference for the revision of the European Convention on the International Classification of Patents for Invention; further work on the establishment of an international classification of the figurative elements of marks and of an international agreement for the protection of type faces; increase in the role of BIRPI in the activities of ICIREPAT;

as far as the Madrid Union is concerned: continuation of the preparatory work for the possible revision of the Madrid Agreement or the establishment of a second agreement on the international registration of marks;

as far as the Berne Union is concerned: holding in 1970, or preparations for holding in 1971, a diplomatic conference for the revision of the Berne Convention at the same time as the revision of the Universal Copyright Convention; continuation of the work in the field of copyright problems concerning communication satellites and computers;

as far as all Unions are concerned: publication of the documents of the Stockholm Conference of 1967.

ANNEX

List of Participants

Member States of the Committee

Argentina

Mr. L. M. Laurelli, Secretary of Embassy, Permanent Mission of the Argentine Republic, Geneva

Australia

Mr. J. P. Harkins, Senior Assistant Secretary, Attorney-General's Department, Canberra, A. C. T.

Austria

Mr. T. Lorenz, Counsellor, Austrian Patent Office, Vienna

Belgium

Mr. Gérald-L. de San, Director-General and Legal Counsellor, Ministry of National Education and Culture, Brussels
Mr. Jacques Degavre, Industrial Property Department, Brussels

Brazil

Mr. Mauro Couto, First Secretary, Permanent Mission of Brazil, Geneva

Cameroon

Mr. J. Eked-Samnik, Embassy of Cameroon, Bonn

Denmark

Mr. Torben Lund, Professor, University of Aarhus

France

Mr. François Savignon, Director, National Institute of Industrial Property, Paris
Mr. Roger Labry, Counsellor of Embassy, Ministry of Foreign Affairs, Paris
Mr. Charles Robmer, Head, Copyright Office, Ministry of Cultural Affairs, Paris
Mr. Pierre-Georges Fressonnet, Deputy Director, National Institute of Industrial Property, Paris

Germany (Fed. Rep.)

Mr. Albrecht Krieger, Ministerialdirigent, Federal Ministry of Justice, Bonn
Mr. Heribert Mast, Ministerialrat, Federal Ministry of Justice, Bonn
Mr. Romuald Singer, Leitender Regierungsdirektor, German Patent Office, Mnnich
Miss Gisela Rbeker, Counsellor of Embassy, Permanent Delegation of Germany, Geneva

Hungary

Mr. Emil Tasnádi, President, Hungarian Office of Inventions, Budapest
Mr. Jenö Bobrovsky, Chief Advisor, Hungarian Office of Inventions, Budapest

India

Mr. G. S. Balakrishnan, Attaché, Permanent Mission of India, Geneva

Iran

Mr. Ebrahim Djahannema, Second Secretary, Permanent Delegation of Iran, Geneva

Italy

Mr. Aldo Pelizza, Inspector-General, Ministry of Industry, Patent Office, Rome
Miss Marta Vitali, V. Inspector, Ministry of Foreign Affairs, Rome
Mr. Maurizio Meloni, Counsellor (First Class), Presidency of the Council of Ministers, Rome
Mr. Roberto Messerotti-Benvenuti, Attorney-at-Law, Montecatini Edison S. p. A., Milan

Japan

Mr. Kojiro Takano, Third Secretary, Permanent Delegation of Japan, Geneva

Kenya

Mr. David J. Coward, Registrar General, Nairobi

Mexico

Mr. Raul Valenzuela, Minister-Counsellor, Permanent Delegation of Mexico, Geneva
Miss Maria de los Angeles Lopez-Ortega, Second Secretary, Permanent Delegation of Mexico, Geneva

Morocco

Mr. Abderrahim H'ssaine, Director-General, Copyright Office, Rabat

Netherlands

Mr. Willem M. J. C. Phaf, Legal Counsellor, Ministry of Economic Affairs, The Hague
Mr. Enno Van Weel, Patent Office, The Hague
Mr. H. J. A. M. Vrouwenvelder, Ministry of Economic Affairs, The Hague

Poland

Mr. Tadeusz Jarno, National Office of Patents, Warsaw
 Mr. Andrzej Piotr Strzelecki, National Office of Patents, Warsaw
 Mr. Tadeusz Niedziątek, Director, Department of Inventions, National Office of Inventions, Warsaw

Portugal

Mr. Ruy Serrão, Director, Industrial Property Office, Lisbon

Rumania

Mr. Costel Mitran, Second Secretary, Permanent Mission of Rumania, Geneva

Spain

Mr. Antonio F. Mazarambroz, Director, Industrial Property Registration Office, Madrid
 Mr. Enrique Valera, First Secretary of Embassy, Permanent Delegation of Spain, Geneva
 Mrs. Isabel Fonseca Ruiz, Director, Research Department, General Directorate of Archives and Libraries, Madrid

Sweden

Mr. G. R. Borggård, Director General, Patent Office, Stockholm
 Mr. Claës Ugglå, Counsellor, Patent Office, Stockholm

Switzerland

Mr. Walter Stamm, Director, Federal Bureau of Intellectual Property, Berne
 Mr. Paul Ruedin, Consular Officer, Federal Political Department, Berne
 Mr. Paul Braendli, Head of Section, Federal Bureau of Intellectual Property, Berne

Union of Soviet Socialist Republics

Mr. Y. Maksarev, Chairman, Committee for Inventions and Discoveries, Council of Ministers of the USSR, Moscow
 Mr. V. Iliyn, Deputy Chief, External Relations Department, Committee for Inventions and Discoveries, Council of Ministers of the USSR, Moscow
 Mr. N. Sarkisov, Deputy Director, Central Institute of Patent Information, Committee for Inventions and Discoveries, Council of Ministers of the USSR, Moscow
 Mr. Y. Gyrdymov, Chief of Department, All-Union Institute of Patent Examination, Committee for Inventions and Discoveries, Council of Ministers of the USSR, Moscow
 Mr. V. Kalinin, Second Secretary, Permanent Delegation of the USSR, Geneva

United Kingdom

Mr. Edward Armitage, Assistant Comptroller, Patent Office, London
 Mr. Ivor J. G. Davis, Principal Examiner, Patent Office, London

United States of America

Mr. William E. Schuyler, Jr., Commissioner of Patents, Patent Office, Washington, D. C.
 Mr. Harvey J. Winter, Assistant Chief, Business Practices Division, Department of State, Washington, D. C.
 Mr. James W. Brennan, Acting Director, Office of International Patent and Trademark Affairs, Patent Office, Washington, D. C.

Observers**States***Algeria*

Mr. S. Bouzidi, Head of Division, National Industrial Property Office, Algiers
 Mr. A. Abdelouahab, Head of Service, National Industrial Property Office, Algiers

Canada

Mr. Finlay Simons, Assistant Commissioner of Patents, Patent Office, Ottawa
 Mr. Jacques Corbeil, Second Secretary and Consul, Permanent Mission of Canada, Geneva

Cuba

Mr. Ortiz Frank, First Secretary, Permanent Mission of Cuba, Geneva

Czechoslovakia

Mr. Miloš Vsetečka, Head, Legal and International Department, Patents and Inventions Office, Prague
 Mr. Oldřich Fabián, Second Secretary, Ministry of Foreign Affairs, Prague

Finland

Mr. Bengt Norring, Chief of Section, Patent and Registration Office, Helsinki

Holy See

Rev. Father Henri-M. de Riedmatten, Permanent Observer of the Holy See to the International Organizations at Geneva, Geneva

Ireland

Mr. M. J. Quinn, Controller of Patents, Designs and Trade Marks, Dublin

Israel

Mr. Ze'ev Sber, Deputy Attorney-General, Ministry of Justice, Jerusalem

Norway

Mr. Sten H. Røer, Office Manager, Patent Office, Oslo

Yugoslavia

Mr. S. Pretnar, Director, Yugoslav Federal Patent Office, Belgrade
 Mr. Nenad Janković, Legal Advisor, Yugoslav Federal Patent Office, Belgrade

Officers of the Interunion Coordination Committee

Chairman: Mr. A. F. Mazarambroz (Spain)

Vice-Chairmen: Mr. T. Jarno (Poland)
 Mr. Mauro Couto (Brazil)

Secretary: Dr. Arpad Bogsch (BIRPI)

United International Bureaux for the Protection of Intellectual Property (BIRPI)

Professeur G. H. C. Bodenhausen, Director

Dr. Arpad Bogsch, First Deputy Director

Mr. J. Voyame, Second Deputy Director

Mr. C. Masouyé, Senior Counsellor

Mr. B. A. Armstrong, Counsellor

Mr. L. Egger, Counsellor

Mr. K. Pfanner, Counsellor

Mr. V. Strnad, Counsellor

International Copyright Joint Study Group

First Session

(Washington, September 29 to October 3, 1969)

Report

Submitted by the Joint Secretariat

I. Introduction

1. The International Copyright Joint Study Group, hereinafter known as "the Joint Study Group", created pursuant to the provisions of Resolutions Nos. 1 and 2 (XR) adopted respectively by the Permanent Committee of the Berne Union and by the Intergovernmental Copyright Committee at their extraordinary sessions (Paris, February 1969), held its first session in Washington, D. C., from September 29 to October 3, 1969, at the invitation of the Government of the United States of America.

2. Twenty-five of the twenty-six member States of the Joint Study Group were represented: Argentina, Australia, Brazil, Canada, Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), India, Italy, Japan, Kenya, Mexico, Netherlands, Nigeria, Peru, Philippines, Rumania, Senegal, Spain, Sweden, Tunisia, United Kingdom, United States of America, Yugoslavia.

3. Attending the meetings as observers were two persons for the organizations representing the authors and one person for the organizations representing the publishers, having been appointed during the information session of August 29, 1969, in Geneva.

4. The list of participants is attached to this report (Annex C).

5. Mr. Philip H. Trezise, *Assistant Secretary of State for Economic Affairs*, opened the first session of the Joint Study Group.

Address by the Librarian of Congress

6. Mr. L. Quincy Mumford, *Librarian of Congress*, welcomed the participants and noted with satisfaction the role that the U. S. Copyright Office in the Library of Congress had played in the administration of the protection of literary property. He stressed that it was the duty of every organized society to protect the fruits of intellectual creation. He pointed out that the fundamental principles of copyright remained unchanged, but technical progress required a constant adaptation of legislation. Furthermore, the problems facing the developing countries were of the utmost importance and demanded special attention. Mr. Mumford expressed the hope that this meeting of the Joint Study Group would mark a new stage in the history of international copyright, in which the United States was ready to play an active part.

Election of the Chairman

7. The Joint Study Group then proceeded to elect its Chairman.

8. At the proposal of the delegation of the Federal Republic of Germany, supported by the delegations of Canada, Italy, Mexico, Sweden, Tunisia, and Yugoslavia, the Joint Study Group elected by acclamation, as its honorary Chairman, Mr. Abraham L. Kaminstein, Register of Copyrights of the United States of America. At the proposal of the delegation of France, supported by the delegations of Brazil, India, Italy, Japan, Mexico, Netherlands, and Yugoslavia, Mr. Eugene M. Braderman, Deputy Assistant Secretary for Commercial Affairs and Business Activities, head of the delegation of the United States of America, was unanimously elected Chairman of the Joint Study Group.

9. On taking the chair, Mr. Braderman expressed his gratitude for the honor shown to his country through his election and assured the members of the Joint Study Group of his cooperation in enabling the session to achieve constructive results.

Addresses by the Director of BIRPI and the Representative of the Director-General of Unesco

10. Professor G. H. C. Bodenhausen, *Director of BIRPI*, stressed the importance of the task of the Joint Study Group in examining the present situation of international copyright, which he described as confused, difficult, and uncertain; and in seeking solutions to improve this situation. He thanked the Government of the United States of America for its invitation and expressed the hope that the Joint Study Group would successfully accomplish its mission.

Professor Bodenhausen stated that the Interunion Coordination Committee of BIRPI had authorized the convening of a diplomatic conference for the revision of the Berne Convention, to be held next year at Geneva from September 1 to 16, and had provided for the necessary financing. He expressed the hope that the competent bodies of the Universal Copyright Convention would agree to call the meeting for the revising of that Convention at the same place and date, so that the two revisions might complement each other. There would certainly be much work in the immediate future, but with the cooperation of all it would be possible quickly to solve the existing problems, which the Joint Study Group had been instructed to examine.

11. Mr. H. Saba, *Assistant Director-General for International Standards and Legal Affairs, Unesco*, conveyed the greetings of the Director-General of Unesco to the participants and his gratitude to the Government of the United States of America for its generous welcome. Mr. Saba pointed out that the complexity of the present situation of interna-

tional copyright stemmed mostly from the fact that the use of works of the intellect was one of the essential factors in development. He noted that this situation made it necessary for the international community to consider copyright protection in its broadest aspects, and in the light of the economic, social, and cultural factors of the various countries. For those reasons, it should be fully recognized that different situations relating to the development of resources, needs, and legislative systems called for different international links.

Recalling that the proposed revision of Article XVII of the Universal Copyright Convention and the Appendix Declaration relating thereto, whose objective was to meet the needs of the developing countries, must have an effect limited in time and space, Mr. Saba asked whether it was necessary to consider the creation of new links between that Convention and the Berne Convention.

Finally, Mr. Saba stated that the protection of intellectual creation and the measures necessary to alleviate the shortage of books and other educational and cultural materials from which the developing countries suffer were the concern of the whole international community and that, therefore, it would be inadequate to study them within a narrow legal framework limited to copyright protection and by bodies whose composition might not represent the whole international community. He insisted on the necessity of discussing these problems in a world forum such as the General Conference of Unesco, now composed of 125 Member States, which is the supreme body of an organization having been entrusted with the twofold mission of protecting intellectual creation and promoting the dissemination of works of the mind.

Adoption of the Agenda

12. The Joint Study Group then proceeded to the adoption of its agenda, it being understood, at the proposal of the delegation of Canada, that each State represented would be able to present general statements.

13. It must be recalled here that the terms of reference of the Joint Study Group were to "examine any questions concerning international copyright relations" and that its first session was to give priority to the following matters:

- (a) the establishment of an international mechanism for permitting developing countries a greater degree of access to protected works while respecting the rights of authors;
- (b) the needs of developing and developed countries in the international copyright field, particularly that of education, the effect of the régime of international copyright relations on the satisfaction of these needs, as well as any improvements that could be made in this respect, taking into account the interests of authors with a view to encouraging the creation of intellectual works;
- (c) the problems arising from the existence of two copyright conventions of world-wide scope and possible methods for providing links between them.

Adoption of the Rules of Procedure

14. The Joint Study Group adopted the draft Rules of Procedure prepared by the Joint Secretariat with a modification to Article 2 providing for an increase in the number of Vice-Chairmen from 3 to 4.

Election of the Vice-Chairmen

15. At the proposal of the delegation of the United Kingdom, supported by the delegation of Brazil, the Joint Study Group unanimously elected as Vice-Chairmen the heads of the delegations of the following countries: India, Italy, Mexico, Senegal.

Drafting of the Report

16. After an exchange of views on the decision to be taken, pursuant to Article 5 of the Rules of Procedure, which provides that the drafting of the report may be entrusted to a rapporteur member of the Joint Study Group or to the Joint Secretariat, it was decided that this task would be assigned to the Joint Secretariat.

II. Establishment of an International Mechanism

17. The Joint Study Group then proceeded to the examination of the first matter referred to in paragraph 13, above.

General Statements

18. The representative of the Director-General of Unesco, in presenting the document submitted by Unesco to the Joint Study Group concerning the establishment of an international mechanism, referred to the study made by Unesco of the problems posed by the shortage of books in developing countries and to the decisions of the General Conference of Unesco on this matter. In carrying out those decisions, the Director-General had invited the Member States, by circular letter, to provide information on copyright facilities that they would be willing to place at the disposal of the developing countries and on the facilities that those countries would like to obtain. The answers to that circular letter, as well as the inclusion of an item in the agenda of the Joint Study Group concerning the establishment of an international mechanism, were brought to the attention of the Executive Council during its 83rd session. Those answers and the discussions which took place within the Executive Council showed that the proposal for the establishment of an international mechanism had been favorably received. Various solutions were envisaged. Some referred to a mechanism for the exchange of information; others went further in considering the possibility of placing at Unesco's disposal the copyright in certain works on condition that they be used in the developing countries; still others contemplated the provision of funds for translations, reprints, adaptations, and other similar facilities in aid of the developing countries.

19. The delegation of the United States of America welcomed the interest expressed by Unesco in the establishment of a clearing house. While there was general agreement on the need for such a mechanism, clarification was necessary as to how it should function and on what scale. Noting the creation in the United States and the United Kingdom by national publishing associations of clearing houses for the exchange of information on copyright, the delegation of the United States felt that such national arrangements could facilitate the mechanism established within Unesco and thus shoulder some of the burden. It would be advisable, however, to define the relationship between Unesco and such national arrangements

and to provide guidance on the functional framework for Unesco's efforts. The delegation of the United States of America proposed that a small working party be created which could study this item of the agenda and report to the Joint Study Group. The following basic principles could guide the working party in its task. Any mechanism should have the support of non-governmental organizations of copyright holders, and of national clearing houses. Its functions could be: to act as an information center on the availability of copyright; to prepare standard contracts for translations and reprints; to identify material and classes of work for educational, scientific and cultural purposes; to bring together those requesting and those having copyright titles; to publish catalogs of available works; to promote the removal of obstacles to materials and provide information on the acquiring of rights.

20. The *delegation of France* noted with interest the proposal to establish an international mechanism and referred to the systems already set up by the national and international organizations of authors, composers, and publishers. The Government of France approved the proposal of BIRPI and Unesco and was of the opinion that Unesco should undertake this activity, keeping in mind the following two conditions: that the existing mechanisms on the national level should be taken into account and that the financial aspects should be carefully studied.

21. The *delegation of Kenya* welcomed the suggestion to establish an international mechanism. In the light of the importance of television, the delegation wondered whether such a mechanism could be extended to include educational television programs, in which event it would have to be in a position to operate quickly.

22. The *delegation of Japan* stated that its Government was in favor of an international mechanism which would provide for access to protected works, not only by developing countries but also by developed countries, such as its own country, which had need of translations.

23. The *delegation of the United Kingdom* expressed hesitation concerning the creation of an international clearing house. There was a likelihood that it would duplicate the work of national clearing houses, such as the one recently established in the United Kingdom whose purpose was to insure prompt replies to requests by publishers in the developing countries. Moreover, an international clearing house would require additional funds for its establishment and its operation would involve additional time in processing the information.

24. The *delegations of India, Nigeria, Peru, and Spain*, also stated that their Governments viewed with interest the proposal to establish an international mechanism and supported the idea of establishing a working party to consider the question.

Creation of a Working Party

25. Following these statements, the Joint Study Group established a working party in order to study the role and the working methods of an international mechanism for per-

mitting developing countries a greater degree of access to protected works while respecting the rights of authors.

26. The Working Party consisted of the representatives of the following countries: France, India, Kenya, Peru, Spain, United Kingdom, United States of America, Tunisia, and the observer appointed by the organizations of publishers.

Work Report

27. The Working Party submitted to the Joint Study Group a report which is attached to this document (Annex A).

III. The Needs of Developed and Developing Countries in the International Copyright Field, and the Problems Arising from the Existence of Two Copyright Conventions of World-wide Scope

28. The Joint Study Group then proceeded to the examination of the second and third matters mentioned in paragraph 13, above.

General Statements

29. The *First Deputy Director of BIRPI* presented the memorandum submitted by BIRPI for the study of the entire situation of international relations in the field of copyright, prepared by BIRPI alone in conformity with paragraph 12(b) of the Resolutions of February 7, 1969, of the Permanent Committee of the Berne Union and the Intergovernmental Copyright Committee, according to which preparatory documents for the Joint Study Group would include reports submitted by the Secretariats jointly or separately.

He summarized the main points of the memorandum and called attention to its final paragraph, which stated that the memorandum was merely intended as a possible basis for discussions. He said that on the question of reciprocity and voting rights other solutions might be better, that reservations could be replaced by provisions in the nature of alternatives or exceptions having the same effect as reservations, and that Article 2(6) of the Berne Convention (Stockholm Act) could be interpreted in a way which would make the suggestion contained in paragraph 64.1 of the memorandum superfluous.

30. The *delegation of Kenya* pointed out that the memorandum submitted by BIRPI, although presenting interesting solutions, could lead to politically undesirable results.

In view of the probable failure of the Stockholm Protocol, the developing countries had turned to the Universal Copyright Convention in the hope of finding satisfaction in that Convention. Now, by means of the Protocol suggested in the BIRPI document, it was proposed that they be obliged to join both the Universal Copyright Convention and the Berne Convention. They could never benefit from the suspension of the safeguard clause because, in withdrawing from the Berne Convention, they would also have to abandon the Joint Protocol in which the suspension would precisely be inserted.

Furthermore, it would be difficult for those countries to ratify a Convention with regard to which they could not take full part in its adoption and its evolution.

For all these reasons, the delegation of Kenya believed that the suggested Protocol would encounter many reservations among the developing countries.

In addition, the delegation of Kenya pointed out that a prerequisite question was whether the developing countries should be allowed to choose freely between the two Conventions or whether it was believed that one was more appropriate than the other for the satisfaction of the needs of developing countries. In the first case, it would be logical to revise the two Conventions; in the second case, and if one was of the opinion that the Universal Copyright Convention constituted a more adequate framework for those countries than the Berne Convention, efforts should be concentrated on revising the Universal Copyright Convention. It would then be sufficient to modify, on the one hand, Article 21 of the Berne Convention so as to detach the Stockholm Protocol from it, and, on the other hand, Article XVII of the Universal Copyright Convention, and to introduce into the latter Convention certain fundamental authors' rights as well as special provisions favoring the developing countries.

31. The *delegation of Italy* expressed its opposition to the proposal contained in the BIRPI memorandum. It believed that the proposed Joint Protocol tended to create a new convention on two levels. This solution seemed difficult to adopt at the present time, because of its rather complicated structure and of the serious obstacles to its application. Moreover, the revision of certain basic clauses of the Berne Convention, with optional reservations for the benefit of some developing countries, could create discrimination towards other countries unable to benefit from them, having long ago subscribed to the said Convention.

The delegation of Italy recalled the proposals it had submitted in June 1969 to the Sub-Committee of the Intergovernmental Copyright Committee with respect to (a) and (b) of the Appendix Declaration (Article XVII of the Universal Convention), certain concepts of which could favor a rapid revision of the Universal Copyright Convention and resolve the question of links between the two Conventions.

32. The *delegation of France* made a certain number of comments on the BIRPI memorandum. It was of the opinion that the document concerned was not a simple working paper, comparable to those previously prepared by that organization in accordance with its mandate. The said document appeared to be a very complicated, very structured paper, going into great detail, whereas, for the time being, all that was needed was to provide the basis for the initial discussions of the Joint Study Group.

In addition, the memorandum tended to present the two Conventions as being competitive whereas, in the eyes of the countries which had created them, they were clearly complementary, as evidenced by Article XVII and the Preamble of the Universal Copyright Convention.

At the same time, the delegation of France expressed its surprise at the statements contained in the said memorandum with respect to the competence of the General Conference of Unesco in the copyright field. The delegation felt that the world-wide influence of Unesco in the copyright field as in other fields was valuable and that it should be exercised for the development of the intellectual heritage of all countries. Consequently, the delegation of France believed that a limitation of its role was out of the question.

Finally, the delegation of France expressed its opposition to the Joint Protocol system, because of its extreme complexity, and to the alleged new links between the two Conventions.

The delegation of France declared itself in favor of maintaining the two Conventions distinct from each other, one designed to preserve and promote a high level of protection (Berne Convention), the other being a common denominator for countries having different systems and levels of protection, and making it possible to come to the aid of the developing countries (Universal Copyright Convention).

The universality of copyright was assured by this two-convention system. Therefore, according to the delegation of France, an attempt at linking those two Conventions seemed dangerous. For those reasons, the delegation of France, referring to Resolution 5.122 unanimously adopted in 1968 by the General Conference of Unesco, requested that the revision of Article XVII be effected independently of any other modification of either Convention.

On the other hand, in order to take into account the situation resulting from such a revision, the delegation of France stated that it was ready to accept a revision of the Stockholm Act of the Berne Convention after the necessary studies had been made by the interested Governments. But it thought it was premature to revise the substantive clauses of the Stockholm Act, especially through the expedient of a Joint Protocol.

Furthermore, the delegation of France was not opposed to an extension of the Universal Copyright Convention, in view of the fact that this revision, as well as that of other clauses of the Geneva Act, would take place after the necessary and urgent revision of Article XVII and independently of that revision.

In conclusion, the delegation of France emphasized that two conventions were necessary, one administered by BIRPI and the other by Unesco, whose role in the dissemination of culture was capital, especially in the developing countries. For that reason, the delegation refused to be led into the discussion on the so-called new links thought to be necessary between the two Conventions. It also refused to subscribe to the text of point 4 of the Resolution of the Sub-Committee of the Intergovernmental Copyright Committee dealing with the advisability of establishing new links which, in its opinion, were unjustified. It was out of the question to replace the safeguard clause by another provision of a vexatious character for developing countries. Besides, the links between the two Conventions remained since (b) of the Appendix Declaration was not affected by the suspension and since the principle of (a) would continue to be applied to developed countries. Furthermore, the joint meetings of the members of the Permanent Committee of the Berne Union and those of the Intergovernmental Copyright Committee should still take place as in the past.

Following this statement, the delegation of France submitted a draft recommendation to be studied by the Joint Study Group.

33. The *delegation of India* pointed out that three facts seemed to determine the international copyright situation:

(i) the need for a wider distribution of intellectual works; (ii) the present serious book shortage in developing countries, which constitutes an obstacle to the progress of education, science, technology, and culture; (iii) the emergence of the Stockholm Protocol, which affirmed the priority of educational needs and the necessity of initiating world-wide cooperation to meet those needs.

After recalling the recommendations adopted in June 1969 by the Sub-Committee of the Intergovernmental Copyright Committee, the delegation of India expressed the belief that the Joint Study Group should divide its study into two parts: the first dealing with the revision of the Universal Copyright Convention so as to make it a truly world-wide instrument; the second dealing with the BIRPI proposals for a new revision of the Berne Convention. However, the second part should be initiated only after the complete implementation of the provisions of the first part, because any link between the two could be a source of confusion.

The delegation of India suggested furthermore that the period of seven years, provided in the Universal Copyright Convention for the right of translation, be reduced to three years, according to the principles set forth in the Stockholm Protocol. As for the right of reproduction, it suggested that the regulation of such right also take its inspiration from the provisions of the said Protocol. However, as far as both translation and reproduction rights were concerned, restrictions of exclusive rights should be made only for educational and cultural purposes.

After recalling the negotiations in progress with certain British and American publishing houses for the purpose of establishing a program of action, the delegation of India expressed the hope that such contacts would favor the spread of culture in the developing countries, and said that it was of the opinion that the international copyright system should go beyond the limited notion of protection to become an instrument of international cooperation in the promotion of books. In that respect, it emphasized the need to guarantee the right to import books and stated that there were no restrictions on that right in India.

34. The *delegation of Japan* expressed the view that Article XVII of the Universal Copyright Convention should be revised and that, at the same time, provisions should be found to allow industrialized countries to accept the said revision. The delegation stated that it favored the idea of a Joint Protocol, especially since Japan had already recommended studies for the unification of the two Conventions. However, it recognized that such a reform, because of the confusion it would create, would be hardly feasible in the immediate future. Therefore, for the time being, efforts should be made to satisfy the needs of the developing countries in conditions acceptable to the developed countries. The measures to be taken for that purpose should deal with translation and reproduction rights. It would be appropriate, as regards translation rights, to provide for a specific system of equitable remuneration after a period of five years, which would be used by the developing countries. As for reproduction rights, a system of legal licenses for exclusively educational purposes should be established; however, a limitation of this type should not be

applicable to translation rights. Such systems could be introduced either in a protocol common to the two Conventions, or in the Universal Copyright Convention alone. Furthermore, the delegation of Japan felt that, in order to reduce the problems resulting from the administration of the two Conventions, the said administration should be entrusted to a single secretariat, preferably BIRPI or, later, WIPO.

35. The *delegation of the Federal Republic of Germany* felt that, in the face of the present international copyright crisis and the reluctance of some industrialized countries to ratify the Stockholm Protocol, it might be useful to seek other solutions.

The BIRPI memorandum proposed to that end a vast program which seemed difficult to implement within a relatively short time. Furthermore, the question of membership in the Berne Union of developed countries which were not yet members would probably not be solved in the immediate future.

Finding an adequate solution to the problems of the developing countries was of the utmost importance. The proposed revision of Article XVII of the Universal Copyright Convention and the Appendix Declaration did not in itself seem to present a satisfactory solution. At the outset, the relationships to be established between industrialized countries and developing countries should be examined. Under the Universal Copyright Convention, developing countries would have to guarantee an "adequate and effective" protection. As this concept had not been defined, it was necessary to study it carefully.

In any case, it would be necessary, according to the delegation of the Federal Republic of Germany, to revise both the Universal Copyright Convention and the Berne Convention. In this respect, that delegation hoped that it would be possible to include the same facilities for developing countries in both Conventions. Moreover, it would look favorably upon the convening of the two revision conferences at one and the same time.

36. After recalling that it was essential that the rights of authors be respected, the *delegation of the United States of America* said it felt that the legal concept of copyright was only one of the factors to be taken into account in the special situation of the developing countries and that social and economic factors should also be considered. Referring to the documentation submitted by Unesco on the needs of developing countries, the delegation of the United States of America emphasized the desire of each nation to export its works and to have access to the best works of other nations. It noted that developing countries were already receiving clearances for translation and reprint rights at reduced rates. This helped to offset the difficulties they faced because their needs were not being fully met by local production and imports.

With regard to the problems arising from the existence of two Conventions, the delegation of the United States of America expressed the view that this question was among the most important the Joint Study Group had to consider. It pointed out that the United States position in this matter had been set out in an Aide-Mémoire handed to each member Government of the Joint Study Group. It recalled that its

Government shared in the consensus on the revision of Article XVII of the Universal Copyright Convention but, in its opinion, it was also essential that new links be established between that Convention and the Berne Convention. It felt that the revision of Article XVII alone would not serve the purpose of those who advocated it, that is, easier access to educational and cultural materials, and that, on the other hand, it could lead to a reduction in the level of protection.

According to the delegation of the United States of America, the two Conventions should be revised simultaneously with a view to (i) suspending the "Berne safeguard clause" of the Universal Copyright Convention for the benefit of developing countries; (ii) separating the Protocol Regarding Developing Countries from the Stockholm Act of the Berne Convention; (iii) including in both Conventions provisions for the benefit of developing countries.

37. The *delegation of Tunisia* favored the maintenance of two Conventions distinct one from the other. The philosophy of each of the two Conventions should be considered different, each of them fulfilling separate needs: in the case of the Berne Convention, the protection of intellectual property, and in the case of the Universal Copyright Convention, the dissemination of culture while respecting copyright.

On the other hand, Tunisia would certainly not have been one of the States which initiated the process for revision of Article XVII of the Universal Copyright Convention, had it been in a position to foresee that some would propose replacing this clause by another measure of a vexatious nature.

The delegation of Tunisia supported the position taken by the delegation of France, for which the question of links between the two Conventions did not arise, inasmuch as links already existed and those links would remain after the proposed revision of Article XVII of the Universal Copyright Convention and the Appendix Declaration relating thereto. As a matter of fact, in relations between developed countries (a) would remain in force and (b) would not be amended.

Furthermore, the delegation of Tunisia said that it did not object to a revision of the two Conventions as proposed by the delegation of the United States of America. Finally, it stated that it could not accept the memorandum submitted by BIRPI.

38. The *representative of the Director-General of Unesco* drew the attention of the Joint Study Group to the fact that the system of the Joint Protocol recommended in the BIRPI memorandum raised great legal problems. Furthermore, the very scope of the revisions advocated could not fail to have an effect on the date at which those modifications could enter into force.

The following points had been suggested: (i) granting of preferential treatment to developing States by the two Conventions; (ii) separation of the Protocol Regarding Developing Countries of the Stockholm Act from the Berne Convention; (iii) possibility of introducing reservations into the Berne Convention; (iv) strengthening of the Universal Copyright Convention; (v) suspension of the safeguard clause.

Although all those proposals had their merits, it should be noted that the Joint Protocol suggested by BIRPI with a view to implementing them posed a problem deriving from

the technique of treaties. The revision of a convention could be carried out only by the States party to such convention and in accordance with the procedures provided by it. Thus, any revision of the Berne Convention required the unanimity of its member States, while the Sub-Committee of the Intergovernmental Copyright Committee had recognized that revision of the Universal Copyright Convention could require a majority more qualified than two-thirds and a simple majority was legally possible. How, then, could a common protocol be considered that would introduce modifications to be adopted unanimously on the one hand, and by a simple or a qualified majority on the other hand.

The representative of the Director-General of Unesco pointed out further that, if a revision had to be considered which would not deal with Article XVII of the Universal Copyright Convention alone but with both Conventions, including a strengthening of the Universal Copyright Convention, the possibility of reservations in the Berne Convention and preferential treatment in favor of the developing States in both Conventions, very long periods of time might elapse before the new texts were ratified.

39. The *delegation of the United Kingdom* recognized that the standards of the Berne Convention were higher than those acceptable to certain developing countries. It considered that the Universal Copyright Convention should be revised so as to allow the developing countries, whether or not they were at present party to the Berne Convention, to avail themselves of the protection provided by the Universal Copyright Convention and to include in that Convention certain fundamental rights such as those of reproduction, public performance and broadcasting, as well as a revised protocol designed to meet the educational needs of the developing countries in a spirit similar to, although less far-reaching than, that of the text adopted at Stockholm.

The delegation of the United Kingdom was also of the opinion that both Conventions should be revised simultaneously.

40. The *delegation of Nigeria* stated that the very composition of the Joint Study Group was tacit proof that international copyright was still somewhat deficient. It emphasized the economic difficulties and shortage of skilled personnel which prevented the developing countries from having access to learning. It expressed the view that the term education should be interpreted in its broadest sense, in its technical, scientific and cultural aspects. It considered that, in the interest of the international community, the two Conventions should culminate in a single system that would eliminate the differences between published and unpublished works and would provide for a uniform period of protection beginning with the date of the first publication of the work, as well as a single system of protection for all works.

The delegation of Nigeria also stated that deletion of the safeguard clause would not in itself suffice to stimulate the dissemination of educational and cultural materials, but that it should be accompanied by active cooperation on the part of those countries which had copyright works to offer.

41. The *delegation of the Netherlands* associated itself with the statements of the delegations of the Federal Republic

of Germany and the United States of America to the effect that all the problems of developing countries would not be solved by the mere suspension of the safeguard clause. It did not believe that the establishment of links between the two Conventions would constitute a penalty on such countries. It stated its position as favoring simultaneous revision of both Conventions.

42. The *Director of BIRPI* explained that a simultaneous revision of both Conventions would mean that there would be two different diplomatic conferences with their own rules of procedure. To be acceptable, however, the solution to the problems posed must derive from identical decisions adopted by both conferences.

The delegation of Kenya had stated that it did not seem clear in the BIRPI memorandum that, if a developing country withdrew from the Berne Union, it could remain exempt from the provisions of the safeguard clause. The Director of BIRPI pointed out that, as indicated in paragraph 59 of that memorandum, any developing country could withdraw from the Berne Convention and still benefit from the suspension of the safeguard clause.

43. The *delegation of Sweden* recalled that, in its policy of aid to the developing countries, its Government had sponsored the proposals that had culminated in the Stockholm Protocol. However, since the latter had not received the anticipated reception, the Swedish Government did not object to the proposal to separate it from the Stockholm Act of the Berne Convention and to consider other measures. The suspension of the safeguard clause was in itself a reasonable measure but it was insufficient because, if such a suspension were not ratified by the principal industrialized countries, the problem would not have been solved. It therefore advocated a search for more far-reaching solutions in the hope that a compromise could be reached and, in conclusion, assured the Joint Study Group of its cooperation to that end.

44. The *delegation of Australia* stressed the importance of respect for copyright as well as satisfying the needs of developing countries. It recognized that, to the extent that the problem was shown to be a copyright problem, it might be appropriate to introduce exceptions into the system of international copyright protection with respect to specific classes of works or works used for a particular purpose. It pointed out that, although it was an importer of works and in that respect in a situation similar to that of the developing countries, Australia had respected copyright and paid the corresponding royalties.

On the figures placed before the Joint Study Group, the delegation of Australia had some difficulty in concluding that the problem was a copyright problem as distinct from a problem of providing aid of various kinds. In that context, it raised a question about the wisdom of introducing exceptions to international copyright, if the result to be achieved should prove to be insignificant. Notwithstanding this doubt, the delegation of Australia was prepared to work with other delegations in an endeavor to achieve a solution acceptable to both developing and developed countries. It saw merit in the idea of a joint protocol and in simultaneous revision of

both Conventions in 1970. It did not, however, favor a provision that would impose compulsory membership of the Berne Convention upon States signing and ratifying such a protocol.

45. The *delegation of Canada*, after recalling that its country's accession to the Berne Convention (Rome text) had been made at a time when it did not yet have complete international sovereignty, stated that Canada was currently in the process of reviewing its obligations deriving from international copyright conventions. It recalled that, according to statistics, Canada was a heavy importer of copyright works and consequently understood and supported the position of the developing countries.

The delegation of Canada concurred in the opinions expressed regarding the serious nature of the present international copyright situation and the need for a new approach to such problems. It pointed out that certain countries would like to take a position intermediate between the two present levels of protection and that, consequently, if a single convention were contemplated, it would have to be established with several levels. It noted that, in the communications received by the Joint Secretariat from the States, many problems had been envisaged and that they would have to be thoroughly examined, by means of serious studies of all the bilateral and multilateral conventions and the various national copyright laws, as well as the possibilities of a merger of the conventions or else of a multilevel convention.

The delegation of Canada believed that, before seeking long-range solutions, the immediate needs of the developing countries should be satisfied. It expressed the belief that the proposals in the BIRPI memorandum were inadequate, since they offered no long-range solution for the developing countries, gave no answer to the concern of the industrialized countries which were in Canada's position, and advocated no measures to cope with technological progress. It suggested that the work be carried out in three principal stages: (i) immediate satisfaction given to the developing countries by unconditional suspension of the safeguard clause; (ii) immediate satisfaction given to the producing countries by detaching the Stockholm Protocol from the Berne Convention; (iii) search for long-range solutions to copyright problems in the light of modern techniques for the utilization of works.

46. The *delegation of Argentina* stated that it was essential to facilitate access to intellectual creations and that its country supported every initiative favoring the progress of nations in need of educational and cultural material. With respect to the documentation assembled by Unesco on the needs of the developing countries, it emphasized that the creation of local literary and artistic heritage should not be hampered and that the authors of those countries should not be discouraged. It expressed reservations regarding the definition of developing countries as currently set forth in the Stockholm Protocol and advocated the adoption of a terminology similar to that of the Universal Copyright Convention, which did not refer to a specific category of States.

The delegation of Argentina further stated its support for the maintenance of two separate and distinct Conventions, considering that the Universal Copyright Convention played

a transitional role in the process of attaining the higher level of protection represented by the Berne Convention. It supported the proposed revision of Article XVII of the Universal Copyright Convention and of the Appendix Declaration relating thereto, as well as the principle of a simultaneous revision of both Conventions.

47. The *delegation of Mexico* stated its position in four points: (i) it favored the suspension, for the benefit of the developing countries, of (a) in the Appendix Declaration relating to Article XVII of the Universal Copyright Convention; (ii) it considered the maintenance of two separate and distinct Conventions necessary; (iii) it considered superfluous the search for new links between the two Conventions; (iv) it believed the two Conventions should be revised simultaneously.

48. The *delegation of the Philippines* expressed its willingness to support revision of the safeguard clause to the extent that it would afford the developing countries easier access to the protected works necessary to them for the promotion of education, science and culture. It deemed it advisable, however, to contemplate regulations capable of meeting those countries' needs while respecting the authors' rights.

The delegation of the Philippines also expressed itself in favor of establishing new links between the two Conventions, designed to avert any disruption in the international copyright field.

As for the establishment of an information center, it stressed that this should be accompanied by provisions to facilitate the distribution of protected works.

It further pointed out that a definition of developing countries more specific than the present ones should be sought.

49. The *observer appointed by the organizations representing the publishers* stated that the publishing industry was fully aware of the problems besetting the developing countries; but he pointed out that those occurring in the copyright field were less important than those stemming from the acquisition of printing equipment, the movement of capital, and the shortage of skilled personnel.

He recalled that both publishers and authors were willing to grant, on minimum conditions, reprint and translation rights for the developing countries. He also emphasized that production costs varied with the size of the market. He further highlighted the necessity of improving contacts between the publishers of the industrialized countries and the publishing houses existing in the developing countries, and voiced the hope that the information center envisaged by Unesco would provide assistance in this field.

With respect to international copyright questions, he emphasized the fact that certain large countries had no liaison with the international systems now in force and that certain others did not participate in all the systems.

In conclusion, he expressed the hope that the international copyright structure that would emerge as a result of the work of the Joint Study Group and the committees and diplomatic conferences that would follow it should: (i) be simple and integrated to avoid the possibility of a deteriora-

tion of international copyright into a confusion of treaties, bilateral agreements, and special arrangements; (ii) provide support for the high level of protection now existing under the Berne Convention and encouragement to all nations to approach that level of protection as rapidly as their circumstances permit; (iii) be comprehensive so as to draw into its embrace those States not now related or fully related to an international copyright system.

Proposed Recommendations

50. At that stage of the discussion, the *delegation of Brazil*, speaking on behalf of a group of countries concerned over the present status of international copyright, and eager to avoid political confrontations and find legal solutions, presented a draft recommendation to the Joint Study Group. The draft set forth the following suggestions for revision of the international copyright system:

I. In the Universal Copyright Convention: (i) suspension of Article XVII and the Appendix Declaration relating thereto for the benefit of the developing countries; (ii) inclusion of the authors' basic rights, that is, the rights of reproduction, broadcasting and public performance; (iii) inclusion of rules permitting exceptions to those rights, as well as to the right of translation, for the benefit of developing countries, without material reciprocity.

II. In the Berne Convention: (i) revision of Article 21 of the Stockholm Act to separate the Protocol Regarding Developing Countries from that Act; (ii) provision under which the revision of Article 21 could become effective only upon ratification of the revised Universal Copyright Convention by France, Spain, the United Kingdom, and the United States of America; (iii) revision of Article 20 to allow the developing countries members of the Berne Union to apply in their relations with those developed countries that are members of the Berne Union the revised text of the Universal Copyright Convention.

51. The *delegation of France*, after recalling the draft recommendation that it had itself submitted, expressed its agreement in principle with most of the points contained in the Brazilian proposal but expressed its opposition to the suggested revision of Article 20 of the Berne Convention, a revision that would lead to a reduction in the level of protection guaranteed by the latter. It drew attention to the fact that the developing countries desirous of applying the provisions of the Universal Copyright Convention in their relations with the industrialized countries could do so within the framework of that instrument. It believed that the member countries of the Berne Union ought to accord the protection provided for in the Berne Convention in their mutual relations and that those which were party to the Universal Copyright Convention ought to do so in accordance with the rules set forth by the latter.

52. The *delegation of Argentina* stated that it was unable to be joint author of all the proposals contained in the draft presented by the delegation of Brazil, but that it supported the draft as a whole.

53. The *delegation of the Federal Republic of Germany* recalled that it too had submitted a draft recommendation

jointly with the delegations of Australia and Japan. Noting that the Brazilian proposal was similar in substance to its own, it declared its readiness to support it. Both were designed to settle three essential problems: (i) the suspension of the safeguard clause for the benefit of the developing countries; (ii) the separation of the Protocol from the Stockholm Act; (iii) the inclusion in the Universal Copyright Convention of minimum rights with rights of reservation for the developing countries. There remained the question whether such rights of reservation should appear also in the Berne Convention. The delegation of the Federal Republic of Germany preferred the latter solution since it would undoubtedly permit the developing countries that were currently members of the Berne Union to remain in it.

54. The *delegation of the United States of America* welcomed the proposal put forward by the delegation of Brazil on behalf of a group of countries. It expressed the belief that the proposal represented an important step forward in the work of the Joint Study Group. It wished to compliment the group of countries responsible for the proposal for their initiative in seeking a compromise, and expressed its support in principle for the proposal.

55. The *delegation of Brazil* then informed the Joint Study Group that the draft recommendation whose details it had stated was presented by the following countries: Brazil, Ceylon, India, Kenya, Mexico, Nigeria, Peru, Philippines, Rumania, Senegal, Spain, Tunisia, and Yugoslavia.

56. The *delegation of France*, referring to its previous statement, indicated that it could not accept the draft submitted by the delegations of the Federal Republic of Germany, Australia, and Japan, because the proposed solution would, in its view, culminate, in practice, in a joint protocol to both Conventions. Furthermore, it considered it premature to express an opinion on the place and date of the revision conferences that would result therefrom.

In addition, it recalled its attitude towards the draft submitted by the countries mentioned in paragraph 55, above, regarding revision of Article 20 of the Berne Convention. It would be a matter of abolishing a fundamental rule of the Convention under the terms of which a special agreement should not reduce the level of protection. The delegation of France drew the Joint Study Group's attention to the seriousness of such a reform, a reform which moreover had already been rejected at the time of the Stockholm Conference. It was of the opinion that abolishing the safeguard clause would give the developing countries party to the Berne Convention a free choice between that instrument and the Universal Copyright Convention and that, in addition, the proposed information center could meet the needs of those countries without their being forced to withdraw from the Berne Union. It believed the proposals set forth in the first five points mentioned in paragraph 50, above, were sufficient without needing to upset the economy of the Berne Convention by a revision it considered dangerous.

57. The *delegation of Argentina*, recalling that revision of the Berne Convention required unanimity, said that the proposed revision of Article 20 should be carefully studied

It wondered, moreover, if the suspension of the Appendix Declaration relating to Article XVII of the Universal Copyright Convention applied to (a) and (b), or (a) only.

58. The *delegation of Kenya* expressed the view that the revision of the aforesaid Article 20 ought to have as corollary a suspension of (b) of the Appendix Declaration; otherwise, the relations between developing countries and developed countries that were party to the Berne Convention would continue to be entirely governed by the latter.

59. The *delegation of France* then voiced its reservations concerning the suspension of (b) of the Appendix Declaration.

60. The *delegation of Italy* emphasized that the two questions were closely related. It shared the feelings of the delegation of France to the effect that Article 20 of the Berne Convention constituted a fundamental provision thereof which ought to be retained. It did not interpret the Brazilian proposal in the sense of an abolition of that Article, however, but rather as being designed to introduce a new provision into that Convention whereby the developing countries would for a certain time be allowed to apply the revised text of the Universal Copyright Convention in their relations with members of the Berne Union.

With respect to (b) of the Appendix Declaration, the delegation of Italy stated that it was affected by the question relating to Article 20 and in that connection referred back to the study paper it had submitted during the meeting of the Sub-Committee of the Intergovernmental Copyright Committee in June 1969.

61. Following this exchange of views, the *delegation of the Federal Republic of Germany* stated, in its own name and on behalf of the co-authors of its draft proposal, that it withdrew the latter in favor of the proposal submitted by the 13 countries listed in paragraph 55, above.

62. At the suggestion of its Chairman, the Joint Study Group then entrusted the task of putting the said proposal into final form to a drafting committee composed of the following countries: Federal Republic of Germany, India, Japan, Mexico, and Senegal.

IV. Adoption of Reports and Recommendations

63. Before proceeding to examine the texts submitted to it by the Working Party mentioned in paragraph 25, above, and by the drafting committee mentioned in the preceding paragraph, the Joint Study Group heard some statements of a general nature made by the observers appointed by the organizations representing the authors.

64. The *Executive Vice-President of the International Writers' Guild (IWG)*, speaking on behalf of its members scattered throughout the entire world, emphasized that the true development of a country and its cultural independence depended on the largest possible number of national authors. He felt that a copyright problem viewed exclusively from the economic standpoint was not a well-defined problem. He expressed the view that rather than opposing countries which were protectionist because they were exporters of works against countries tending to reduce protection because they

were importers, it would be better to reverse that order. Certain countries became exporters precisely because they were protectionist, whereas others refusing the protection of copyright ran the risk of permanently remaining importers.

He also recalled the authors' profound attachment to the high level of protection represented by the Berne Convention. If the authors remained firmly attached to the maintenance of two Conventions distinct from one another, it was because they feared that a linking or merger of the two might result in a reduction of that level. The authors recognized the need for specific and limited temporary measures in view of the undeniable urgency of fulfilling needs of an educational nature, but their common aim was the attainment of the present level of protection under the Berne Convention, which was the prerequisite for the blossoming of intellectual creations to enrich the cultural heritage of mankind.

65. The *Secretary-General of the International Confederation of Societies of Authors and Composers (CISAC)* conveyed to the Joint Study Group the position of his organization, which included 80 societies of authors belonging to 40 different countries. He was gratified that the work of the Joint Study Group opened a path which it seemed could not fail to result in a solution to the current international copyright problems. However, he recalled the principles underlying his organization's preoccupation. CISAC considered it essential to preserve a system of protection hinging on two Conventions distinct from one another: the Berne Convention and the Universal Copyright Convention. That was why, even while acknowledging the constructive nature of the proposal put forward by Brazil and 12 other countries, he voiced reservations regarding the proposed revision of Article 20 of the Berne Convention, which could represent a step towards the merger of both Conventions. In the same spirit, CISAC was opposed to a joint protocol to those two instruments, as well as to the unification of their administration.

He recalled the necessity of aiding the developing countries to surmount their problems with regard to the payment of royalties but emphasized that the authors should not be the only ones to bear that burden.

In conclusion, he expressed the opinion that the present meeting marked a turning point in the international copyright field and assured the Joint Study Group of the authors' collaboration in the pursuit of its work.

Adoption of the Working Party's Report on the Establishment of an International Mechanism for Permitting Developing Countries a Greater Degree of Access to Protected Works While Respecting the Rights of Authors

66. The *Working Party's Chairman, Mr. Rafik Said (Tunisia)*, presented the report approved by the Party at the outcome of its deliberations.

67. The *delegation of France* said that the phrase "cultural works" appearing in paragraph 11(2) covered a very broad category of works and suggested that it be replaced by the expression "works of cultural promotion."

68. The *delegation of Japan* recalled that, during the general discussion of this agenda item, it had proposed that

not only the developing countries but also the industrialized countries could have access to protected works through the proposed international mechanism. It raised the question whether discussion of that matter had been initiated in the Working Party.

69. The *representative of the Director-General of Unesco* pointed out that the Working Party's feeling was that the information center should be of limited scope at its inception, with respect both to the categories of works on which it would be called upon to give information and as regards the countries concerned. It was a case, however, of temporary limitations and the extension of the mechanism to the industrialized countries could be envisaged in the future.

70. The *delegation of the United Kingdom*, recalling the hesitation it had expressed at the outset regarding the establishment of an international mechanism, stated that its support of the text of the Working Party's report should not be interpreted as meaning that it was in a position to commit its Government to voting the funds necessary for the establishment of an information center.

71. Replying to the question raised by the delegation of Nigeria, which wondered whether the establishment of an information center would have repercussions on the bilateral arrangements that might be concluded between the different countries, the *Chairman* stated that, in his opinion, the said center would not constitute an exclusive system and the various countries would be free to avail themselves of other arrangements.

72. The *delegation of Argentina* observed that it approved the Working Party's report but considered that the proposed information center should not operate on too vast a scale in view of the need to economize on the funds of international intergovernmental organizations and to allot them to the promotion of developing countries.

73. Following this exchange of views, the Joint Study Group adopted the report of the Working Party and the conclusions it contained, on the understanding that the phrase "cultural works" would be replaced by the expression "works of cultural promotion."

Adoption of the Washington Recommendation

74. The Joint Study Group examined the draft recommendation prepared by the drafting committee, meeting under the chairmanship of Professor E. Ulmer (Federal Republic of Germany), and presented to it by the rapporteur of that committee, Mr. Balakrishnan (India).

75. On the proposal of the *delegation of Mexico*, supported by the delegations of Argentina, Brazil, India, and Nigeria, the Joint Study Group decided to give the recommendation a specific title and call it "Washington Recommendation" in honor of the Government of the United States of America for having acted as host to the first session of the Joint Study Group.

76. The *delegation of Tunisia* said it had given its careful attention to the proposed recommendation of the delegation of France, whose principles it approved.

The delegation of Tunisia, during the preparation of the draft submitted by the group of 13 countries of which it was a member, had therefore naturally, and largely, been inspired by the views expressed by the delegation of France. It noted that the two proposals coincided on the essential objective to be attained, that is, satisfaction of the needs of the developing countries with due respect for copyright, differences remaining only on one of the means of attaining it. In that respect, the delegation of Tunisia emphasized the unity of views with respect to the objectives to be attained. Therefore, while understanding the concern voiced by the delegation of France, it expressed the wish that the latter would be willing to consider that, under the circumstances, "the end fully justified the means."

77. The *delegation of Senegal* recalled that its country belonged to two cultural eras: the African, and that of French expression. It was therefore bound by a dual solidarity. On the basis of the so-called "vertical" solidarity, Senegal was obliged to take account of the interests of those who were its brothers by race, history, geography and civilization, and who were, to be sure, divided between the two influences — French tradition and English tradition — but whose needs were identical. On the basis of the so-called "horizontal" solidarity, France had always been on the side of the French-speaking African countries, supporting their viewpoints.

The delegation of Senegal considered that the text of the recommendation submitted in an effort at conciliation did not diverge excessively from the French position and that the sole difference lay in the means and not in the objective to be attained. It recalled that, after achieving its sovereignty, its country had decided to remain at France's side within the Berne Union, and that it had been the first to ratify the Stockholm Protocol. It added that its determination to remain in the Berne Union continued unimpaired.

The delegation of Senegal further emphasized that in its opinion it was not a case of a revision but rather of a broadening, designed to allow the developing countries to remain in the Berne Union without being subject to penalties and to regularize their relations on the basis of the Universal Copyright Convention, the level of protection of the Berne Convention continuing to prevail among the industrialized countries. In conclusion, it appealed to the spirit of understanding of the delegation of France.

78. The *delegation of Italy* expressed its agreement with the proposed recommendation, while observing that it would undoubtedly be advisable to consider certain ideas carefully again during the drafting of the texts. It suggested that, in point 5, the word "culture," considered much too broad, should be replaced by the words "promotion of culture." With respect to point 8, it recalled its desire to have the revision of the Universal Copyright Convention take place at the earliest possible moment and stressed the need of avoiding that the recommendation of a simultaneous revision of both Conventions at the same place and on the same dates should result in a reconsideration of the period originally envisaged for revision of Article XVII and the Appendix Declaration relating thereto.

In addition, the delegation of Italy expressed reservations on point I(3), which needed more thorough study with respect to the equivalence of protection and also as regards the author's right to receive just compensation, as the Stockholm Protocol stipulates when dealing with the right of broadcasting. On point II(1), it pointed out that, if the provisions contemplated in derogation of Article 20 of the Berne Convention should in practice replace the Stockholm Protocol, problems of a legal nature might arise if some countries ratified that Protocol, and it wondered whether it would not be preferable to delete it purely and simply. On point II(2), the delegation of Italy put the question whether from the formal point of view there were any precedents. Finally, on point II(3), it stated its opposition to a revision of Article 20 itself and suggested that the recommendation merely indicate the desire to prepare some provisions towards the desired aim.

79. The *delegation of France* declared that it gladly expressed its agreement with numerous points of the draft recommendation submitted in the name of several countries by the delegation of Brazil. It noted with satisfaction that those points were in accord with certain of the proposals set forth in its own declarations, as the delegations of Senegal and Tunisia had observed.

However, the delegation of France expressed reservations on point 6, on the first sentence of point 8, on point I(1), for, although it agreed to the deletion of (a) of the Appendix Declaration, it could not accept the deletion of (b), and on point II(3), for reasons it had explained earlier. Furthermore, it concurred in the view expressed by the delegation of Italy with respect to point I(3).

Referring to the reminder made by one delegation of the need for unanimity for revision of the Berne Convention, the delegation of France considered that that was not the only risk faced by the draft recommendation. It was concerned, on the one hand, that the level of the Berne Convention, to which it was especially attached, should once more be diminished by those modifications; and on the other hand, that the procedure of urgent suspension of Article XVII of the Universal Copyright Convention to give satisfaction rapidly to the developing countries had been abandoned and replaced by a series of reforms whose effects — there was reason to fear — were deferred to a much later date. The delegation of France was desirous of avoiding those difficulties and that was the main reason why it had submitted a draft recommendation. But it accepted the optimism of the delegation of Tunisia and likewise sincerely hoped that "the end would justify the means."

80. The *delegation of Argentina*, after expressing its agreement in principle with the proposed recommendation, said that it interpreted the benefit from suspension of the safeguard clause as being reserved to those developing countries alone which were presently members of the Berne Union. Furthermore, with respect to point II(2), it said that its country would have difficulty in agreeing that entry into force of a treaty of that sort should be subject to ratification by specific States. Finally, it asked what the financial repercussions would be of the adoption of point II(4). In answer to the

latter question, the First Deputy Director of BIRPI stated that, subject to more precise calculations, there might be a resulting increase of some 5% in the contributions of countries belonging to other classes.

81. The *delegation of Yugoslavia* concurred in the views expressed by the delegation of France and remarked that, while it had supported the draft recommendation submitted by the delegation of Brazil and other countries, the reason was that it considered it was the only possible compromise.

82. The *delegation of the United Kingdom* welcomed whole-heartedly points I(1) to (3) and II(1) of the text submitted to the Joint Study Group, which contained its Government's ideas; it considered point II(2) to represent a reasonable solution in the present context.

It expressed hesitation on point II(3), which did not accord with the United Kingdom's views, and on point II(4), which had not been discussed. Nevertheless, it stated its acceptance of the draft recommendation as a whole, as a basis for future activity.

83. The *delegation of Rumania* expressed its agreement with the proposed recommendation, which was in accordance with its Government's views. It noted with satisfaction that the discussions had not been focused exclusively on the economic aspect of the problems raised. It insisted on the urgency of meeting the needs of the developing countries, chiefly in the field of fundamental education, and was pleased that those countries were trying to solve their problems within the framework of the existing international conventions.

While acknowledging the advantages that a single convention might afford, the delegation of Rumania believed, in view of the complexity of reaching such a solution, that the present two Conventions, with certain changes, could conciliate the interests concerned. It also suggested that at the time of the revision of the Universal Copyright Convention a provision similar to that contained in Article 10(2) of the Berne Convention could be introduced.

84. The *delegation of Brazil* emphasized that a formula such as that mentioned in point II(2) of the draft recommendation was important because of the responsibility that certain States assumed in forming and promoting culture. It concurred in the remarks of the delegation of Italy on point II(3). It also recalled that it was the responsibility of the Permanent Committee and the Intergovernmental Copyright Committee to express their opinions on the convening of the revision conferences.

85. The *delegations of Australia, Ceylon, Czechoslovakia, Federal Republic of Germany, Japan, Kenya, Mexico, Netherlands, Nigeria, Peru, Sweden, and United States of America*, supported in turn the draft recommendation.

86. With respect to point II(2) and the question whether precedents existed, the *delegations of Brazil, Kenya, and Netherlands*, stated that to their knowledge such was indeed the case. The delegation of the Netherlands cited the case of conventions governing the social security of personnel in sea-going ships, concluded under the auspices of the International Labour Organisation, and the delegation of Kenya recalled Protocol 3 annexed to the Universal Copyright Convention.

V. Miscellaneous Questions

87. The *delegation of Canada*, after expressing its satisfaction with the results achieved, stated that the work of the Joint Study Group had to be continued since there remained a certain number of problems to be examined and settled. Consequently, the delegation submitted the following recommendation to the Joint Study Group:

"1. The International Joint Study Group,

2. Having studied some urgent problems in the field of international copyright and addressed to the Permanent Committee of the Berne Union and to the Intergovernmental Copyright Committee a recommendation on those problems,

3. Recognizing that other problems remain to be solved and that the mandate of the Joint Study Group, as established by the said Committees, obliges the Joint Study Group to consider those problems,

4. Recommends that the Committees having established the Joint Study Group be requested to convene further sessions of the latter at the most appropriate time."

88. The Joint Study Group unanimously adopted the above recommendation.

89. The *delegation of the United Kingdom*, referring to the BIRPI memorandum, suggested that the Joint Study Group consider during its subsequent sessions the question of reservations to be introduced into the Berne Convention to permit the accession to that instrument of certain developed countries not yet party to it.

It also declared itself to be in favor of a single secretariat for the administration of both Conventions.

90. The *delegation of the United States of America* deemed it necessary to reconsider the question of observers at the Joint Study Group, and proposed that the latter recommend to the Permanent Committee of the Berne Union and the Intergovernmental Copyright Committee that they reconsider the question in their forthcoming sessions.

91. The above suggestion was unanimously adopted by the Joint Study Group.

VI. Closing of the Session

92. The *delegation of Kenya* asked whether, in the event that the Permanent Committee of the Berne Union and the Intergovernmental Copyright Committee approved the program suggested by the Joint Study Group, the diplomatic conferences could take place in September 1970.

93. The *representative of the Director-General of Unesco* pointed out that it was the entire responsibility of the Committees themselves to make the necessary arrangements — each separately and as far as its own Convention was concerned — for the preparations, dates and place of each revision conference.

94. The *Director of BIRPI* said that any revision conference, if it was to be successful, had to be carefully prepared and that it would doubtless be advisable to devote the year 1970 to that task and during that year committees of experts and a further session of the Joint Study Group would probably have to be convened. In those circumstances, and subject

to the decisions of the competent bodies, he expressed the hope that the revision conferences could be held in the spring of 1971.

95. At the close of its deliberations, the Joint Study Group adopted the present report.

96. The *Delegation of India*, speaking on behalf of all the participants, expressed to the Chairman the Joint Study Group's appreciation of the skill, competence and courtesy with which he had conducted the debates. It congratulated the Joint Secretariat on the assistance it had given during the preparations for the session and throughout the proceedings.

97. The *Chairman* again thanked all the delegations for their cooperation and closed the first session of the Joint Study Group.

ANNEX A

Report

of the Working Party on Item 5 of the Agenda

1. The Working Party on item 5 of the Agenda, consisting of representatives of France, India, Kenya, Peru, Spain, Tunisia, United Kingdom and United States of America, met and elected, as its Chairman, Mr. Rafik Said of Tunisia. The meeting was also attended by the representatives of the Federal Republic of Germany and Mexico and by the observer representing the publishers' associations.

2. The Chairman noted that the terms of reference of the Working Party were to study the question of the establishment of an international mechanism for permitting developing countries a greater degree of access to protected works while respecting the rights of authors, and recalled that Unesco was in the course of taking steps to create such a mechanism and would welcome the views of the Joint Study Group concerning its functions and operation.

3. During the discussion which ensued, the views set forth hereinafter were expressed.

4. An international center should be established by Unesco as soon as possible, on a simple and limited scale at its inception, with the widest possible acceptance.

(1) Its initial task would be to consult, either directly or through National Commissions for Unesco, with

(a) authors, publishers, and their representative organizations, educational authorities, and government officials in developing countries, to determine exactly what types of works and rights they needed most, and

(b) authors, publishers, and their representative organizations, and government officials in developed countries, to determine the terms and procedures to which they would agree.

(2) On the basis of that information, the center would inform copyright owners in developed countries of the special needs of the various developing countries, and would elicit from them *any or all* of the following information:

(a) the titles of works for which they control rights, selectively on the basis of the expressed needs of the developing countries;

(b) terms and conditions for the use of any or all of the titles listed, broken down by developing country, type of work (book, periodical, audio-visual), nature of work (engineering, mathematics, literature), type of use (reprint, translation into specified languages, broadcasting), market limitations, and currency requirements. The copyright owner should be free to set a time limit when the stated terms and conditions expire, unless expressly renewed;

(c) those titles on which the copyright owner is willing directly to assign rights for the benefit of the developing countries or to

delegate to the center the authority to conclude agreements on the basis of the stated terms and, for all others, the address of the copyright owner or appropriate authorities in the developed country from whom rights can be obtained.

(3) The center would provide an efficient administration for furnishing information and clearing rights as expeditiously and simply as possible. At the same time, a major function would be to work directly with representatives in both developed and developing countries to remove obstacles and see to it that needs are met, letters are answered, terms are reasonable, and royalties are paid. Experience and data gained in this way could form the basis for the future evolution of the center.

(4) The center could also develop, on the basis of the opinions of interested persons and organizations, model forms of contracts for translation, reprint, and other rights.

5. The proposed international center could take its inspiration from and draw upon the experience of existing international systems, such as those of authors' and composers' societies. They have already established international contacts permitting access to certain kinds of literary and artistic works, which, moreover, would not be regarded as falling within the purview of the international center's activities.

6. Noting the creation of clearing houses on the national level established by national publishing associations, as well as the existence of regional information centers, it was felt that duplication of activities should be avoided. Efforts should be made to encourage the formation of bilateral agreements between national publishing associations in the developed countries and appropriate bodies in developing countries. The activities of regional information centers might also be strengthened.

7. The functioning of an international center could be expedited if member States which had not already done so were encouraged by Unesco to establish central mechanisms on the national level, such as national publishing associations or national clearing houses, or to designate existing bodies, such as the National Commissions for Unesco, which could cooperate with the proposed international center in its task.

8. To the extent that an international mechanism would include the maintenance of a bibliography of titles, it should be limited to works of a specific character, in the educational, scientific and cultural fields, which would be immediately available.

9. To assist developing countries effectively to utilize the works which may be made available to them through the international mechanism, additional technical assistance should be extended for the organization of training courses for translators and covering all aspects of the publishing industry, for the provision of fellowships and equipment, for the joint publication of technical works, and for bringing together pedagogical authorities to develop adaptations of works.

10. While the creation of an international fund to remunerate authors whose works are utilized by developing countries may be regarded at present as premature, the expansion of the international mechanism to encompass such a fund is not to be excluded. Meanwhile, every effort should be made to encourage the full utilization of existing financial arrangements, such as the use of Unesco coupons and the extension of bilateral aid for the payment of royalties.

11. After taking into consideration the various views expressed, the Working Party concluded that:

(1) An international copyright information center should be established by Unesco along the following lines:

(i) It should be established on a modest scale initially, and developed in the light of demand.

(ii) It should, either directly or through National Commissions for Unesco, consult with

(a) authors, publishers, and their representative organizations, educational authorities, and government officials in developing countries, to determine exactly what types of works and rights they needed most, and

(b) authors, publishers, and their representative organizations and government officials in developed countries, to de-

termine the terms and procedure to which they would agree, and communicate the results to those concerned.

(iii) It should invite copyright owners in developed countries to communicate the following information about works relevant to the needs established under (ii), above:

(a) the titles of works for which they control rights, selectively on the basis of the expressed needs of the developing countries;

(b) terms and conditions for the use of any or all of the titles listed, broken down by developing country, type of work (book, periodical, audio-visual), nature of work (engineering, mathematics, literature), type of use (reprint, translation into specified language, broadcasting), market limitations, and currency requirements. The copyright owner should be free to set a time limit when the stated terms and conditions expire, unless expressly renewed;

(c) those titles on which the copyright owner is willing either directly to assign rights for the benefit of the developing countries or to delegate to the center the authority to conclude agreements on the basis of the stated terms and, for all others, the address of the copyright owner or appropriate authorities in the developed country from whom rights can be obtained.

(iv) It should encourage the formation of national copyright information centers in developed and developing countries where they do not already exist, and, where necessary, act as a link between them.

(v) It should encourage the development, on the basis of the opinions of interested persons and organizations, of simple model forms of contracts for translation, reprint, and other rights required by developing countries.

(vi) It should investigate methods of providing finance for needed rights where foreign exchange is not available.

(vii) It should not be concerned with the clearance of rights required by developed countries.

(viii) It should provide assistance to developing countries for the organization of training courses for translators and concerning all aspects of the publishing industry, for the provision of fellowships and equipment, for the joint publication of technical works, and for bringing together pedagogical authorities to develop adaptations of works.

(2) The objectives of such an international copyright information center should be to permit a greater degree of access by developing countries to educational and scientific works and works of cultural promotion, taking into consideration that modern methods of communication have afforded the opportunity to disseminate knowledge through other means than books.

(3) The information to be provided through the international copyright information center should bear a direct relationship to the facilities which member States are willing to grant and, in the fields of education, science, and culture, those facilities should be made available, taking into consideration the appropriate requirements in the developing countries which need such facilities and their desire to utilize such information.

(4) In order to expedite the timely flow of information concerning the facilities made available by developed countries and needed by developing countries, as well as to minimize expenses, the international copyright information center should utilize existing mechanisms, such as the National Commissions for Unesco, and associate itself with national clearing houses and regional information centers, and take into consideration the existence and the role of other comparable arrangements on the international level without creating any overlapping.

12. The Working Party recommends that the Joint Study Group adopt the following resolution:

Resolution

The International Copyright Joint Study Group, having met in Washington from September 29 to October 3, 1969,

Recognizing the need to provide simple, effective, and realistic help to developing countries in solving their practical problems of copyright clearance,

Considering the report prepared by a Working Party to study "the establishment of an international mechanism for permitting developing countries a greater degree of access to protected works while respecting the rights of authors,"

Recommends that the United Nations Educational, Scientific and Cultural Organization (Unesco) establish, as soon as possible, an international copyright information center and that the center operate within the framework and guidelines set forth in the conclusions of the Working Party's report.

ANNEX B

Washington Recommendation

1. The International Copyright Joint Study Group,
2. Having met in its First Session in Washington from September 29 to October 3, 1969,

3. On the basis of an extensive and thorough exchange of views in the matter of "The Study of the Entire Situation of International Relations in the Field of Copyright" (see Resolutions of February 7, 1969),

4. Recalling that the Protocol Regarding Developing Countries included in the Stockholm Act of the Berne Convention has been accepted only by a small number of countries and that there are no indications from the major developed countries that they intend to accept the said Protocol,

5. Recalling once more the most urgent need of developing countries to find satisfactory solutions in the field of copyright in respect of their requirements for education, science and promotion of culture,

6. Recognizing the need for avoiding a situation in which countries long associated with the Berne Union could virtually be compelled to leave the said Union for the purpose of availing themselves of the concessions to be accorded to developing countries,

7. Recognizing also the fact that when any developing country party to the Berne Convention becomes a developed country it should have no difficulty in reviving its rights and obligations under the said Convention,

8. Recommends, as a matter of first priority, that the Universal Copyright Convention and the Berne Convention be simultaneously revised in revision conferences to be held at the same time and place so as to achieve the following:

I. In the Universal Copyright Convention:

- (1) Suspension of Article XVII and the Appendix Declaration for the benefit of developing countries;
- (2) Inclusion of author's basic rights of reproduction, of broadcasting, and of public performance;
- (3) Inclusion of rules permitting relaxation of those rights, as well as the right of translation, for the benefit of developing countries, without material reciprocity.

II. In the Berne Convention:

- (1) Revision of Article 21 of the Stockholm Act to separate the Protocol Regarding Developing Countries from that Act;
- (2) Provision under which the revision of Article 21 can become effective only upon ratification of the revised Universal Copyright Convention by France, Spain, the United Kingdom and the United States of America;
- (3) Provision to allow developing countries members of the Berne Union to apply in their relations with other countries members of that Union the revised text of the Universal Copyright Convention;
- (4) Suspension of the obligation of paying contributions to the Berne Union by developing countries having chosen Class VI or VII for the purposes of contributions.

ANNEX C**List of Participants****I. States members of the Joint Study Group***Argentina*

- Mr. Marcelo Eduardo Huergo, Third Secretary, Embassy of the Argentine Republic
 Dr. Raúl A. Estrada-Oyuela, Third Secretary, Embassy of the Argentine Republic
 Dr. Ricardo Tiscornia, Head, Intellectual Property Registration Office
 Dr. Carlos Mouchet, Legal Advisor of Societies of authors and of the Chamber of Book Industry of Argentina

Australia

- Mr. J. P. Harkins, Senior Assistant Secretary, Attorney General's Department

Brazil

- Mr. Jorge Carlos Riheiro, Secretary of Embassy, Embassy of Brazil, Montevideo
 Mr. Renato Xavier, Ministry of Foreign Relations
 Mr. Daniel da Silva Rocha, Director of Administration, Copyright Protection Service (SDDA)

Canada

- Mr. A. M. Laidlaw, Commissioner of Patents, Patent and Copyright Office
 Mr. Jacques Alleyn, General Counsel, Radio-Canada
 Mr. Marc Dolgin, Ministry of External Affairs
 Mr. G. E. Pallant, Ministry of Industry and Commerce
 Mr. A. A. Keyes, National Film Board of Canada

Ceylon

- Mr. Chandra Monerawela, Second Secretary, Embassy of Ceylon, Washington, D. C.

Czechoslovakia

- Dr. Otakar Turek, Third Secretary, Embassy of the Czechoslovak Socialist Republic, Washington, D. C.

Germany (Fed. Rep.)

- Professor Dr. Eugen Ulmer, University of Munich
 Mrs. Elisabeth Steup, Ministerialrätin, Ministry of Justice
 Dr. Manfred Karl Richard Günther, Counsellor, Ministry of Foreign Affairs

France

- H. E. Mr. Pierre Charpentier, Ambassador, Ministry of Foreign Affairs
 Mr. Marcel Boutet, Vice-Chairman of the Commission for Intellectual Property, Ministry of State for Cultural Affairs
 Mr. Jean-Loup Tournier, Director-General, Society of Authors, Composers and Music Publishers (SACEM)

India

- Mr. Kanti Chaudhuri, I. A. S., Joint Secretary to the Government of India, Ministry of Education and Youth Services
 Mr. S. Balakrishnan, Joint Secretary to the Government of India, Ministry of Law
 Mr. P. Gangulce, Counsellor (Education and Culture), Education Department, Embassy of India, Washington, D. C.

Italy

- Mr. G. Padellaro, Director-General of Services for Information and Literary, Artistic and Scientific Property, Presidency of the Council of Ministers

Mr. Gino Galtieri, Inspector-General, Head of the Literary, Artistic and Scientific Property Office, Presidency of the Council of Ministers

Mr. G. Trotta, Judge at the Court of Appeal, Legal Adviser of the Italian Delegation for Intellectual Property Treaties, Ministry of Foreign Affairs

Mr. V. De Sanctis, Member of the Permanent Consultative Copyright Committee

Japan

- Mr. Kenji Adachi, Deputy Director-General, Agency for Cultural Affairs, Ministry of Education
 Mr. Yoshio Nomura, Copyright System Council
 Mr. Teruo Matsushita, First Secretary, Embassy of Japan, Washington, D. C.

Kenya

- Mr. D. J. Coward, Registrar General
 Mr. Georges Straschnov, Director, Department of Legal Affairs, European Broadcasting Union

Mexico

- Mr. Arturo González Cosío, Director-General of Copyright, Ministry of Education
 Mr. Carlos Gómez Barrera, Director-General, Society of Authors and Composers
 Mr. Arseuio Farell Cuhillas, Legal Advisor, Society of Authors and Composers
 Mr. Fernando Rodríguez Díaz, National Chamber of the Publishing Industry
 Mr. Miguel Acosta Romero, Ministry of Education

Netherlands

- Professor W. L. Haardt, University of Leiden
 Mr. J. A. W. Schwan, Division of Legislation on Private Law, Ministry of Justice
 Dr. J. Verhoeve, Director General, Ministry of Cultural Affairs
 Mr. G. W. Maas Geesteranus, Assistant Legal Adviser, Ministry of Foreign Affairs

Nigeria

- Mr. J. Afolahi, Counsellor, Embassy of Nigeria, Washington, D. C.

Peru

- Dr. Carlos Klauer García, Legal Advisor, Ministry of Education
 Dr. Alfonso Espinoza Palacios, Minister-Counsellor (Cultural Affairs), Embassy of Peru, Washington, D. C.

Philippines

- Mr. Pablo R. Suarez, Jr., Minister, Embassy of the Philippines, Washington, D. C.
 Mr. Zotico A. Tolete, Attaché, Embassy of the Philippines, Washington, D. C.

Rumania

- Mr. Tudor Mircea, Second Secretary, Ministry of Foreign Affairs

Senegal

- Mr. Saliou Kandji, Conseiller culturel, Direction des Arts et Lettres, Ministry of Culture, Youth and Sports

Spain

- Mrs. Isabel Fonseca Ruiz, Director, Research Department, General Directorate of Archives and Libraries

Sweden

- Mr. Torwald Hesser, Justice of the Supreme Court
 Mr. Hans Danelius, Legal Adviser, Ministry of Justice

Tunisia

- Mr. Rafik Said, Minister Plenipotentiary, Deputy Permanent Delegate to Unesco
 Mr. Abderrahmane el Amri, Attaché de Cahinct, Ministry of Cultural Affairs
 Mr. Larbi Hantous, Second Secretary, Embassy of Tunisia, Washington, D. C.

United Kingdom

- Mr. W. Wallace, C. M. G., Assistant Comptroller, Industrial Property and Copyright Department, Board of Trade
 Mr. I. J. G. Davis, Industrial Property and Copyright Department, Board of Trade
 Mr. R. Barker, O. B. E., British Copyright Council

United States of America

- Mr. Eugene M. Braderman, Deputy Assistant Secretary for Commercial Affairs and Business Activities, Department of State
 Mr. Abraham L. Kaminstein, Register of Copyrights, Library of Congress
 Mr. Keld Christensen, Chief, Business Practices Division, Commercial Affairs and Business Activities, Department of State
 Miss Barbara Ringer, Assistant Register of Copyrights, Library of Congress
 Mr. Robert Hadl, Legal Adviser, Copyright Office, Library of Congress
 Mr. Charles A. Kennedy, Business Practices Division, Commercial Affairs and Business Activities, Department of State
 Miss Sylvia E. Nilsen, Office of the Legal Adviser, Department of State

Yugoslavia

- Mr. Aleksandar Jelić, Director, Legal Department, Secretariat of State for Foreign Affairs
 Professor Dr. Vojislav Spaić, University of Sarajevo

II. Observers*(a) Observers from the organizations representing authors*

- Mr. Léon Malaplate, Secretary General, International Confederation of Societies of Authors and Composers (CISAC)
 Mr. Roger Fernay, Executive Vice-President, International Writers Guild (IWG)

(b) Observer from the organization representing publishers

- Mr. Dan Lacy, Senior Vice President, McGraw-Hill Book Company

III. Secretariat*(a) United Nations Educational, Scientific and Cultural Organization (Unesco)*

- Mr. H. Saha, Assistant Director-General for International Standards and Legal Affairs, Representative of the Director-General
 Miss Marie-Claude Dock, Head, Copyright Division
 Mr. Gust A. Ledakis, Jurist, Division of Legal Affairs

(b) United International Bureaux for the Protection of Intellectual Property (BIRPI)

- Professor G. H. C. Bodenhausen, Director
 Dr. Arpad Bogsch, First Deputy Director
 Mr. Claude Masouyé, Senior Counsellor, Head, External and Public Relations Division
 Mr. Vojtěch Strnad, Counsellor, Head, Copyright Division

IV. Officers

- | | |
|--------------------|--------------------------------------|
| Honorary Chairman: | Mr. Abraham L. Kaminstein (U. S. A.) |
| Chairman: | Mr. Eugene M. Braderman (U. S. A.) |
| Vice-Chairmen: | Mr. Kanti Chaudhuri (India) |
| | Mr. Arturo González Cosío (Mexico) |
| | Mr. Saliou Kandji (Senegal) |
| | Mr. G. Padellaro (Italy) |
| Joint Secretariat: | Miss Marie-Claude Dock (Unesco) |
| | Mr. Claude Masouyé (BIRPI) |

INTERNATIONAL ACTIVITIES

International Federation of Musicians (FIM)

(7th Ordinary Congress, Nuremberg, September 8 to 12, 1969)

The International Federation of Musicians held its 7th Ordinary Congress from September 8 to 12, 1969, at the *Meistersingerhalle* in Nuremberg.

Delegates representing the 25 member organizations from the following 19 countries participated in the work of the Congress: Austria, Czechoslovakia, Denmark, Finland, France, Germany (Fed. Rep.), Greece, Ireland, Israel, Italy, Netherlands, Norway, Poland, South Africa, Spain, Sweden, Switzerland, United Kingdom, Yugoslavia. Other organizations were represented by observers from: Austria, Germany (Fed. Rep.), Hungary, Israel, Japan, South Korea, Spain, Switzerland, USSR.

The International Federation of Actors (FIA) was also represented by its President, Mr. V. Fišar, and by its Secretary-General, Mr. R. Remhe.

Two intergovernmental organizations sent observers: Mr. E. Thompson, Head, Non-Manual Workers' Section, represented the International Labour Organisation, and Mr. M. Stojanović, Legal Assistant in the Copyright Division, represented BIRPI.

A detailed report on the activity of the Executive Committee had been submitted to the Congress. Apart from organizational matters, it included a number of problems of a professional or legal nature such as performers' rights, authors' rights and authors' organizations, commercial phonogram records, radio and television broadcasting, collaboration with international organizations, and so forth.

After having considered the items on the agenda point by point, the Congress took various decisions. It instructed the Executive Committee, inter alia,

to take all steps that seem appropriate to protect

- (a) performing musicians against exploitation of their performances for television without geographical or time limitation;
- (b) the music professions, especially in developing countries, against a flood of foreign musical television programmes.

In regard to the production and use of commercial records, the Executive Committee was instructed

to establish for the attention of member unions guide-lines which are suitable for:

- (a) creating on an international scale uniform conditions on which musical performances are recorded for commercial purposes, and a uniform practice in the use of commercial records;
- (b) helping musicians whose performances are recorded on disc to obtain a recompense directly proportional to the exploitation of such discs; and
- (c) submitting the public use of commercial records to certain controlling measures, both in respect of the duration of use and of the countries in which the records may be publicly performed.

Lastly, the Congress expressed the opinion that

FIM should regard the protection of employment opportunities as being not less important than the improvement of remuneration for musicians. Although, for example, the ratification of the Rome Convention by all countries remains a goal of FIM, it is the view of this Congress that limitation of the use of commercial records is more important than the payments made to member unions by phonographic industries.

At the end of the session, the Congress elected its new Executive Committee. Mr. Hardie Ratcliffe (Great Britain) was re-elected President, and Mr. M. Ferrara (Netherlands) and Mr. F. Anderson (Sweden) were elected Vice-Presidents. The five remaining seats on the Executive Committee were allocated to the musicians' organizations of the following countries: Austria, Germany (Fed. Rep.), Italy, Spain, Yugoslavia. Mr. Rudolf Leuzinger retained his post as Secretary-General of FIM.

Max Planck Institute, Munich

(Working Session, September 22 to 24, 1969)

The Max Planck Institute organized this session which was held from September 22 to 24, 1969, in Munich.

The first meeting was devoted to copyright questions. Professor Eugen Ulmer, Director of the Institute, first outlined the general situation of international copyright as it appeared on the eve of the first session of the Joint Study Group, in Washington. An interesting discussion followed on the subject, inter alia, of the problem of developing countries and their needs in this field.

During the second part of this first meeting, participants were informed about the new legislation of a number of countries or questions arising on the legislative level or in case law (Austria, Czechoslovakia, Germany (Fed. Rep.), Nordic countries, Yugoslavia).

During the second meeting, which was devoted to industrial property problems, a similar survey was given in respect of the following countries: Austria, Czechoslovakia, Germany (Fed. Rep.), Hungary, Japan, Nordic countries, Rumania, United States of America.

Lastly, at the third and final meeting, participants learned about the various projects and work being undertaken by the Institute and were informed of the topics planned for the next working session.

In addition to the members of the Institute, several specialists from the Federal Republic of Germany attended the meeting, as well as specialists from the following nine countries: Austria, Czechoslovakia, Finland, Hungary, Italy, Japan, Rumania, United States of America, Yugoslavia. BIRPI was represented by Mr. Mihailo Stojanović, Legal Assistant in the Copyright Division.

* * *

Immediately following this session of the Max Planck Institute, there was a meeting of the Comparative Law Society (*Gesellschaft für Rechtsvergleichung*) of the Federal Republic of Germany. The meeting was held in Regensburg. One of the working groups took up the problem of the development of copyright in the socialist countries, as well as the effects of this development on international relations.

NEWS ITEMS

CYPRUS

Signature, with reservation in respect of ratification, of the European Agreement concerning Programme Exchanges by Means of Television Films, of the European Agreement on the Protection of Television Broadcasts, and of the Protocol to the said Agreement

In a letter dated October 13, 1969, the Secretary-General of the Council of Europe informed BIRPI that, on September 23, 1969, Mr. C. N. Pilavachi, Permanent Delegate of Cyprus to the Council of Europe, with full authorization of his Government, had signed, with reservation in respect of ratification, the following European Agreements:

- European Agreement concerning Programme Exchanges by Means of Television Films, which became open for signature by the Member States of the Council of Europe on December 15, 1958;

- European Agreement on the Protection of Television Broadcasts, which became open for signature by the Member States of the Council of Europe on June 22, 1960;
- Protocol to the European Agreement on the Protection of Television Broadcasts, which became open, on January 22, 1965, for signature by the governments having signed the Agreement and by governments acceding to it.

The Agreement concerning Programme Exchanges is already in force with respect to the following Member States: Belgium, Denmark, France, Greece, Ireland, Luxembourg, Netherlands, Norway, Sweden, Turkey, United Kingdom, as well as to Tunisia (which acceded to it).

The Agreement on the Protection of Television Broadcasts and the Protocol are already in force with respect to seven Member States: Belgium, Denmark, France, Germany (Fed. Rep.), Norway, Sweden and the United Kingdom.

