

# Copyright

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# WORLD INTELLECTUAL PROPERTY ORGANIZATION

## Notifications concerning the application of the transitional clauses of the WIPO Convention

### CZECHOSLOVAKIA — IVORY COAST — YUGOSLAVIA

*Notification of the Director of BIRPI to the Governments  
of the countries invited to the Stockholm Conference*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs and, in accordance with the provisions of the above international instrument, adopted at Stockholm, has the honor to notify him of the notifications deposited by the Governments of the Czechoslovak Socialist Republic, the Republic of Ivory Coast and the Socialist Federal Republic of Yugoslavia in which those Governments indicate their desire to avail themselves of the provisions of Article 21(2) of the Convention.

Those notifications entered into force on the dates of their

receipt, that is, on August 4, 1970, for the Czechoslovak Socialist Republic and on August 6, 1970, for the Republic of Ivory Coast and the Socialist Federal Republic of Yugoslavia.

Pursuant to the provisions of the said Article, the Czechoslovak Socialist Republic, the Republic of Ivory Coast and the Socialist Federal Republic of Yugoslavia, which are members of the Paris Union and of the Berne Union but which have not yet become party to the WIPO Convention, may, for five years from April 26, 1970, the date of entry into force of the said Convention, exercise the same rights as if they had become party.

Geneva, August 10, 1970.

WIPO Notification No. 28

### NORWAY

*Notification of the Director of BIRPI to the Governments  
of the countries invited to the Stockholm Conference*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs and, in accordance with the provisions of the above international instrument, adopted at Stockholm, has the honor to notify him of the notification deposited by the Government of the Kingdom of Norway in which that Government indicates its desire to avail itself of the provisions of Article 21(2) of the Convention.

This notification entered into force on the date of its receipt, that is, on July 22, 1970.

Pursuant to the said Article, the Kingdom of Norway, which is a member of the Paris Union and of the Berne Union but has not yet become party to the WIPO Convention, may, for five years from April 26, 1970, the date of entry into force of the said Convention, exercise the same rights as if it had become party.

Geneva, July 31, 1970.

WIPO Notification No. 27

# INTERNATIONAL UNION

## Notifications concerning the application of the transitional clauses of the Stockholm Act of the Berne Convention

### CZECHOSLOVAKIA

#### *Notification of the Director of BIRPI to the Governments of Union Countries*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs and, in accordance with the provisions of the above international instrument, adopted at Stockholm, has the honor to notify him of the notification deposited by the Government of the Czechoslovak Socialist Republic in which that Government indicates its desire to avail itself of the provisions of Article 38(2) of the Stockholm Act of the Berne Convention.

That notification entered into force on the date of its receipt, that is, on August 4, 1970.

Pursuant to the provisions of the said Article, the Czechoslovak Socialist Republic, which is a member of the Berne Union, may, for five years from April 26, 1970, the date of entry into force of the Convention Establishing the World Intellectual Property Organization (WIPO), exercise the rights provided under Articles 22 to 26 of the Stockholm Act of the Berne Convention, as if it were bound by those Articles.

Geneva, August 10, 1970.

Berne Notification No. 25

### NORWAY — YUGOSLAVIA

#### *Notification of the Director of BIRPI to the Governments of Union Countries*

The Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) presents his compliments to the Minister for Foreign Affairs and, in accordance with the provisions of the above international instrument, adopted at Stockholm, has the honor to notify him of the notifications deposited by the Governments of the Kingdom of Norway and the Socialist Federal Republic of Yugoslavia in which these Governments indicate their desire to avail themselves of the provisions of Article 38(2) of the Stockholm Act of the Berne Convention.

These notifications entered into force on the dates of their

receipt, that is, on July 22, 1970, for the Kingdom of Norway, and on July 20, 1970, for the Socialist Federal Republic of Yugoslavia.

Pursuant to the said Article, the Kingdom of Norway and the Socialist Federal Republic of Yugoslavia, which are members of the Berne Union, may, for five years from April 26, 1970, the date of entry into force of the Convention Establishing the World Intellectual Property Organization (WIPO), exercise the rights provided under Articles 22 to 26 of the Stockholm Act of the Berne Convention, as if they were bound by those Articles.

Geneva, July 31, 1970.

Berne Notification No. 24

## Ad Hoc Preparatory Committee for the Revision of the Berne Convention

(Geneva, May 19 to 21, 1970)

### Final Report

#### Introduction

1. The Ad Hoc Preparatory Committee for the revision of the Berne Convention, hereinafter referred to as the "Preparatory Committee", established by Resolution No. 1 adopted by the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) at its fourteenth ordinary session in Paris from December 15 to 19, 1969, met in Geneva, at BIRPI Headquarters, from May 19 to 21, 1970.

2. The following eight States, members of the Preparatory Committee, were represented: France, Germany (Federal Republic), India, Italy, Mexico, Tunisia, the United Kingdom and Yugoslavia.

3. The Chairman of the Permanent Committee of the Berne Union participated in the meeting; Kenya and the United States of America were represented by observers and representatives of the Director-General of Unesco also attended.

4. Representatives of eleven States members of the Berne Union or party to the Universal Copyright Convention, other than those listed in paragraphs 2 and 3, attended the meeting as non-participating observers, as well as two persons representing the authors' organizations, one person representing the publishers' organizations, one person representing the organizations of legal circles working for copyright protection and three persons representing the organizations of users of copyright works, who had been appointed at the information meeting convened by the Director of BIRPI on March 16, 1970, in implementation of Resolution No. 1, paragraph 7(b)(v) adopted by the Permanent Committee of the Berne Union.

5. The list of participants is appended to this report.

#### Opening of the Meeting

6. The meeting was opened by Professor G. H. C. Bodenhäusen, Director of BIRPI, who addressed a cordial welcome to the participants.

#### Election of the Chairman

7. On a proposal by the delegation of Mexico, supported by the delegations of France, India, Tunisia, the United Kingdom and Yugoslavia, Professor Eugen Ulmer, Head of the delegation of the Federal Republic of Germany, was elected unanimously Chairman of the Preparatory Committee.

#### Adoption of the Rules of Procedure

8. The Preparatory Committee adopted the draft Rules of Procedure contained in document DA/31/2.

9. On the suggestion of the Chairman, it was agreed that representatives of States and of international non-governmental organizations attending the meeting as non-participating observers should be able to make statements at the invitation of the Chairman.

#### Election of the Vice-Chairman

10. At the proposal of the delegation of India, supported by the delegations of France, the Federal Republic of Germany, the United Kingdom and Yugoslavia, the Preparatory Committee unanimously elected M. Arturo González Cosío, Head of the delegation of Mexico, Vice-Chairman.

#### Adoption of the Agenda

11. The Preparatory Committee adopted its agenda as proposed in document DA/31/1.

#### Preparation of a Draft Text of the Proposals for Revision of the Berne Convention

12. The Secretariat presented the documentation prepared by BIRPI and gave detailed information on the procedure used to establish the working document DA/31/8 presented to the Preparatory Committee.

13. The Director of BIRPI added certain points for clarification and indicated that, in his view, paragraphs 3, 4 and 5 of Article B contained in the annex to document DA/31/8 might not need to be taken into consideration, in view of the fact that they did not appear to fit the general scheme of the provisions of the Berne Convention.

14. The delegations of the Federal Republic of Germany, the United Kingdom, India, Yugoslavia, Mexico, France and Tunisia recommended that document DA/31/8 be considered as a basis for discussion, subject to amendments and clarifications which could be inserted during the course of the debates.

15. Several delegations, particularly those of France, the United Kingdom and Tunisia, expressed the view that the question as to whether the provisions relating to developing countries should be inserted into the text of the Convention itself or into an Additional Act could be dealt with only when the contents of these provisions had been established.

#### *Article A, paragraph 1 (the system of reservations)*

16. Mr. Saba, the representative of the Director-General of Unesco, drew the attention of the members of the Preparatory Committee to the fact that the concept of reservations could give rise to conflicting interpretations according to the

principles of international law. Referring to the Vienna Convention on the Law of Treaties, adopted on May 23, 1969, he observed that the word "reservation" implied reciprocity and that, if it was desired to exclude this, a different word might be preferable.

17. The delegation of Yugoslavia stated that the Vienna Convention could be invoked only in the absence of specific provisions on the question and suggested, together with the delegation of India, that it be stipulated expressly in the draft text that reciprocity should not be permitted in relations with States making reservations, so that no ambiguity could arise.

18. The Preparatory Committee approved the suggestion made by the delegations of India and of Yugoslavia, and after a discussion in which the delegations of France, Tunisia, the United Kingdom and Mexico took part noted that with such an express stipulation it would be possible to use the words "reservation" and "*réserve*" in the English and French texts respectively, while in the Spanish text a different word (e. g. "*excepción*") might be preferable.

19. In the course of the discussion on Article A, dealing with the system of reservations open to developing countries, modifications in the drafting were made in paragraph 1 (deletion of the final sentence: "declare that it will" to "are contained in the said Articles"; replacement of the words: "declare that it will avail itself" by "may, by a notification deposited... declare, that it will avail itself of any or all...").

20. In the third line of paragraph 2 of the same Article, the words "with respect to the country concerned" were deleted.

21. In paragraph 3, the sentence beginning with the word "However" was altered to the following wording: "However, any copies of a work already made under the reservation provided for in Articles B and C may continue...".

22. The Preparatory Committee, noting a difference of terminology between the Berne Convention and the Universal Copyright Convention, approved the replacement of the words "contracting State" by the word "country".

23. When this Article was discussed, the delegation of France raised the general problem, apart from questions of drafting, whether the relaxations proposed in favor of developing countries should or should not be made available only to developing countries already members of the Berne Union. It stressed that the absence of any limitation would amount to allowing developing countries to adhere at any time to the Berne Union without respect for its essential clauses. It expressed the view that certain limitations could well be established without the Berne Convention ceasing, for that reason, to be an open convention and it indicated, moreover, that nothing hindered the developing countries from adhering to it at present, if they wished to do so.

24. The delegation of Kenya emphasized that developing countries not yet parties to the Berne Convention could not adhere to it before it was revised. As the earlier versions of the Convention provided for no relaxations in favor of developing countries and the Stockholm version had not been

ratified by those developed countries whose artistic heritages are of chief interest to developing countries, the latter are compelled to await the future revision of the Berne Convention before being able to adhere thereto. If they adhered to it now, they would have to accept a régime of copyright protection going beyond their financial resources and amend their national legislation beforehand. It would be surprising if a developing country were to do this merely to become a member of the Berne Union and thus enjoy the advantages which will be offered to developing countries by the Berne Convention as revised in 1971, though fully aware that such advantages, to take practical effect, will require a further revision of national legislation.

25. The delegation of the United Kingdom shared the point of view of the delegation of France; it said that to some extent, however, the answer to the question whether developing countries which were not yet members of the Berne Union should be treated in the same way as the present members would depend on the extent of the reservations allowed in the Berne Convention for developing countries. It suggested therefore that the question should be left in abeyance for the moment.

26. The delegations of Mexico, Tunisia, the Federal Republic of Germany, Yugoslavia, the United States of America and Kenya stated that they were in favor of a solution which would permit the application of the same system to developing countries members of the Berne Union as to those which might subsequently adhere. The delegation of Kenya emphasized, moreover, that the four developing countries represented in this meeting could not enter into any commitments on behalf of all such countries, that there was no valid reason for closing the Berne Convention after its revision and that no menace to the interests of developed countries could result from future accessions in view of the rule of unanimity written into the Convention for the adoption of modifications.

27. The delegation of Senegal declared that the eighteen developing countries at present members of the Berne Union had adhered to it with full knowledge of the situation, that they did not see any reason to go back on this decision and that it would not be logical to continue waiting forever for the decision of those who have not as yet declared their intentions. It suggested, as a compromise solution, that a supplementary period of three or five years after the entry into force of the new Act should be allowed for those developing countries which until then had stayed outside the Berne Union.

28. The delegation of India stated that it could not accept the idea of a "closed door" for certain developing countries and that it could not declare itself in favor of discriminations between developing countries on the one hand on the basis of national and world languages and on the other hand on a distinction between full members and half members.

29. The delegation of France pointed out that the idea was not to close the possibilities of adherence, that the Berne Convention would remain an open convention and that the only question to be solved was whether concessions should be

made to countries which had not yet adhered to the Convention. The proposal submitted by the delegation of Senegal was acceptable, provided that the period was reasonable.

30. In order to take into account the opinions voiced during this debate, the Preparatory Committee decided to insert the suggestion made by Senegal in the form of an alternative, combined with that of the delegation of France, so that the States should be given an opportunity to settle their positions on this point.

31. In relation to the period within which the non-Union developing countries could avail themselves of the intended relaxations, the delegations of France and Italy declared themselves in favor of a period of two years after the entry into force of the new Act of the Berne Convention. The delegation of Tunisia and the observer of Senegal expressed the hope that the duration of that period would not give rise to differences of opinion and that a reasonable solution would be found.

32. The delegation of Kenya, after discussion with the representatives of other developing countries, declared that the idea of a certain period to be accorded to developing countries, at present not members of the Union, to avail themselves of the new régime of reservations had not been considered in Washington, that it did not appear in the Washington Recommendation and that consequently the delegations of these countries had no instructions from their governments on either the principle itself or the duration of the period. The countries would make their position known at the meeting of the Permanent Committee of the Berne Union in September 1970.

#### *Article B (reservations on the right of translation)*

33. Drafting corrections were made in the text of this Article and particularly the repetitions of the words "non-exclusive and non-transferable" were deleted. The words "languages of that country" were substituted for "national languages of that country".

34. The delegation of India stated that it was in favor of a general license applicable seven years after the first publication of the work, analogous to that provided for in Article V of the Universal Copyright Convention.

35. The delegation of France declared that it agreed to exceptional licenses to be granted after one, three or five years for purposes of teaching, scholarship or research. On the other hand, it could not accept a term of seven years for a license the purpose of which was commercial and not educational, for which there was no place in the Berne Convention and which could pervert the spirit of that Convention. To insert into that Convention the basic provisions of the Universal Copyright Convention would lead to an amalgamation of the two Conventions, which was an idea to which France was opposed. It was for this reason that paragraphs 3, 4 and 5 of Article B should not be maintained.

36. The delegation of Kenya, recalling the Washington Recommendation, emphasized that the exceptions in favor of developing countries should be expressed in such a way that

the level of protection should be the same in both Conventions. It recalled the conditions under which a compromise had been reached at the Ad Hoc Preparatory Committee for the revision of the Universal Copyright Convention, and declared that the deletion of paragraphs 3, 4 and 5 would create a new situation.

37. Moreover, the delegation of Kenya observed that there was no incompatibility between the reservation of ten years (Article 30(2) of the Stockholm Act) and the proposed system as the new countries adhering to the Berne Union could make their choice between the two solutions. It repeated that, if the Washington Recommendation were to materialize, it would be necessary to maintain the principle of paragraphs 3, 4 and 5, since the Berne Convention would otherwise contain conditions less favorable to developing countries than the Universal Copyright Convention. Finally, it stated that the developing countries, while giving preference to Alternative A, reserved for themselves the possibility of presenting a fourth alternative to the Permanent Committee in September.

38. The delegation of the United Kingdom concurred in the views expressed by the delegation of Kenya as far as the choice between the two systems of reservations was concerned, while stressing that the reservation provided for in Article 30(2) of the Stockholm Act could be made use of only by countries which had made the reservation at the moment of adhering to earlier Acts or by newly adhering countries. It suggested, however, as a possible compromise solution that the choice be made available to all developing countries, including existing members of the Union, so that any such country would be able to avail itself either of the general reservation provided for in Article 30(2) or of the system of compulsory licenses for specific purposes contained in Alternatives A, B or C in document DA/31/8. It wished to know which provisions were really needed by developing countries as far as the languages, the terms and possibility of exportation were concerned.

39. The delegation of Mexico declared its opposition to the possibility of exportation of works translated under the license system.

40. The delegation of France expressed its interest in the solution advocated by the delegation of the United Kingdom consisting of a possible choice between the reservation provided for in Article 30(2) and the proposed new system. It wondered, however, whether the educational aim of the Washington Recommendation, namely to accord to developing countries facilities in the field of education, would not be exceeded by the provisions proposed in paragraphs 3, 4 and 5 of Article B.

41. The Chairman of the Preparatory Committee then drew up a short list of outstanding problems, namely: the difficulties which could arise if the licensing systems under the Universal Copyright Convention and under the Berne Convention were not identical, the method of inserting the system into the Berne Convention, the possible choice between the reservation of ten years and the new system, the different treatment of translation licenses in relation to so-called

"world" languages and national languages, the problem of exportation in these different cases, the purposes of the licenses before and after the term of seven years computed from the date of first publication of the original work. The Preparatory Committee decided to return to consideration of these points at a later stage.

*Article C (reservation in respect of the right of reproduction)*

42. The Preparatory Committee decided to maintain the text as proposed, based on the solution adopted by the Ad Hoc Preparatory Committee for the revision of the Universal Copyright Convention.

43. It was understood that this report would reflect the same positions as those adopted during the previous week in Paris, with regard to exceptions to the right of reproduction to be inserted into the Universal Copyright Convention, namely:

- (i) the developing countries declared themselves to be ready to accept the deletion of the right to export on condition that the term provided for and to be computed after the first publication of a given literary and artistic work should not exceed three years;
- (ii) the delegation of the United Kingdom felt that the term provided for should be seven years and that there should be no right to export;
- (iii) the delegation of France considered that the term of three years was too short, but that, on the other hand, the term of seven years proposed by the delegation of the United Kingdom could be slightly reduced.

44. After an adjournment of the meeting, the delegation of Kenya reaffirmed that the developing countries agreed that reproductions produced under the régime of licenses should not be exported, on condition that the term did not exceed three years.

*Article D (provisions common to both reservations)*

45. The Preparatory Committee felt it was advisable to maintain, in paragraph 2, the reference to the diplomatic or consular services of the country of which the owner of the original right is a national, as an additional guarantee.

46. After a discussion in which the delegations of France, the United Kingdom, Kenya and the United States of America participated, it was decided that the license should be permitted if copies of the original edition had not been on sale for at least six months at a price corresponding to that which is normally charged in the country concerned for works of the same kind.

*Relationship between the present version of the Berne Convention and the new Act under consideration*

47. The Preparatory Committee noted that a certain analogy existed between the provisions of Article IX as proposed for the revision of the Universal Copyright Convention and Article 32 of the Stockholm Act of the Berne Convention.

48. The delegation of the United Kingdom however emphasized that the differences between the systems of the Universal Copyright Convention and the Berne Convention could render difficult a simple transposition from the former into the latter. At the same time, anxious to open the way for the proposed relaxations in favor of developing countries in the shortest possible time, the delegation of the United Kingdom suggested the adoption of a provision analogous to that of Article 5 of the Stockholm Protocol.

*Renewal of deliberations on the reservations to the right of translation*

49. The Preparatory Committee returned to the problem of the application of the reservation of ten years to the right of translation according to Article 30(2)(a) and (b) of the Stockholm Act and of the reservations provided for in Article B of document DA/31/8.

50. The delegation of France declared its opposition to the introduction of a translation license after seven years, as provided for in the Universal Copyright Convention, and it felt that the transposition of this provision into the Berne Convention was not helpful. Emphasizing that the Preparatory Committee was charged with the drafting of a range of possible solutions, it suggested that these should be presented in the form of alternatives. It reserved, however, the final decision of France until the competent authorities had made their decision following consultation with the interested professional circles.

51. The delegation of Kenya declared that the developing countries would accept a compromise solution in respect of licenses granted after the expiry of seven years from the date of first publication of the work, to the effect that the export of copies of the work translated into a "world" language should not be permitted, provided that the purposes for which the license could be granted should not be limited to education, scholarship and research. The compromise solution proposed by the delegation of the United Kingdom, to the effect that all developing countries, including existing members of the Union, should have the choice between the general reservation provided for in Article 30(2) and a limited system of compulsory licenses, offered no real advantage to the developing countries, who were more concerned with the question of quick access to works than with that of reduction of royalties; however, so far as new members of the Union were concerned, developing countries considered that they should be able to avail themselves either of the provisions of Article 30(2) or of the compulsory licensing system, but not of both.

52. The Director of BIRPI suggested stipulating explicitly that after seven years translation licenses may be granted for any purpose into the national language of a developing country, but that export will not be permitted if the said language is a so-called "world" language also.

53. The Chairman of the Preparatory Committee suggested that these were questions of drafting and that a small committee could cope with them.

### *Term of protection*

54. Speaking on behalf of the developing countries represented at the Preparatory Committee, the delegation of Kenya declared that the provisions of the Stockholm Protocol relating to the possibility of shortening the term of protection could be abandoned at the revision of the Berne Convention.

55. The Chairman of the Preparatory Committee indicated his appreciation of this contribution to the spirit of international cooperation and the delegation of France associated itself with his words.

### *Additional Act to the Convention*

56. After having considered different solutions, the Preparatory Committee decided to propose that the provisions containing the relaxations for developing countries should be included in an Additional Act, forming an integral part of the Convention itself. In consequence, the provisions of Article 32(3) should be maintained. Moreover, reference to the Protocol should be replaced in all Articles concerned by a reference to the Additional Act.

57. In reply to a request for clarification made by the delegation of Kenya, the delegation of the United Kingdom stated that, in its view, no legislation would be required in order to permit the United Kingdom to admit the application of the Additional Act in relation to its works. Legislation would however be required in order to allow the United Kingdom to ratify Articles 1 to 20 of the Convention itself. The Preparatory Committee decided that a provision similar to Article 5 of the Stockholm Protocol should be inserted into the Additional Act.

58. Mr. Saba, representative of the Director-General of Unesco, recalling the difference between the acceptance of reservations and the procedure of ratification of the text of a convention, stated that the proposed solution appeared to him to be in conformity with international law.

### *Contributions of developing countries to the Berne Union*

59. The delegation of the United Kingdom stated that it did not appear to be equitable that countries exempted from contributions should nevertheless have an influence on the adoption of the general budget; it felt, however, that this was not a problem of paramount importance.

60. The delegation of France pointed out that a total exemption of developing countries was contrary to the practices of international organizations in similar cases. A token contribution, of e. g. about 0.04 % of the total budget (the minimum contribution to the United Nations), might be considered so that no precedent should be created.

61. The delegation of Kenya recalled that this provision had been inserted into the Washington Recommendation without any initiative on the part of developing countries and that they did not insist on this point.

62. The Director of BIRPI pointed out that some of the developing countries were in arrears with their payments, minimal as they might be, and that it would be desirable not

to take a final decision before the opinion of a greater number of countries was known.

63. The Preparatory Committee felt it would be appropriate to study the question as to what extent special contributions with reduced financial obligations could be maintained for the benefit of developing countries.

### *Final clauses*

64. The Preparatory Committee decided to replace in the final clauses of the Stockholm Act references to the Protocol by references to the Additional Act. In another connection, on a proposition by the delegation of the United Kingdom, the Preparatory Committee suggested that a provision should be included in the Additional Act referring to the reservation to the right of translation, to the effect that a country making a declaration according to Article 30(2) could not make a reservation pursuant to the Additional Act.

65. Consideration of a new text of Article 34, to prevent accessions to the Stockholm Act or to earlier Acts after entry into force of the revision Act, was entrusted to the Drafting Committee.

### *Miscellaneous questions*

66. An observer of the organizations representing the users of works protected by copyright drew the attention of the Preparatory Committee to the urgent problem of piracy in the field of sound recording and suggested that measures should be considered to prohibit the production and imports of infringing copies.

67. The Chairman of the Preparatory Committee pointed out that neither the Berne Convention, nor the Universal Copyright Convention appeared to be the appropriate instrument to deal with this problem. He suggested, however, the possibility of preparing a special agreement, and stated that this question could in any case become the subject of further deliberations at the September meetings.

### *Drafting Committee*

68. On a motion of the Chairman of the Preparatory Committee a Drafting Committee composed of the representatives of the delegations of France, the United Kingdom, Mexico and Kenya was entrusted with the drafting of the texts for the revision of the Berne Convention. The delegation of Kenya, attending the meeting of the Preparatory Committee as an observer, also attended the meeting of the Drafting Committee in this capacity.

69. The result of the deliberations of the Drafting Committee, of which Mr. William Wallace, Head of the delegation of the United Kingdom, acted as Chairman, was presented to the Preparatory Committee as document DA/31/9.

### *Closing of the Session*

70. After having carried out an examination, paragraph by paragraph, and after having heard the explanations given either by the Chairman of the Drafting Committee, by the Chairman of the Preparatory Committee or by the Secretariat, the Preparatory Committee unanimously approved the text of the proposals, including alternative proposals, submitted

by the Drafting Committee. The Preparatory Committee expressed the view that the proposed text of Article 1(1)(c) included the sense that a developing country which had withdrawn a declaration made in accordance with Article 30(2)(b) would be free to avail itself of the reservations provided for in Article 2 of the Additional Act.

71. It was agreed that a draft report of the meeting be prepared by the Secretary of the Preparatory Committee and circulated by him to all participants for possible comments, corrections or additions relating to their interventions in the discussion.

72. The delegation of India, speaking on behalf of all the participants, addressed sincere thanks to the Chairman of the Preparatory Committee, Professor Ulmer, for the competence and skill with which he had conducted the debates and to BIRPI for the preparatory documentation which they had established. The delegation of the United Kingdom, associat-

ing itself with the declaration of the delegation of India, emphasized the cooperation and the constructive spirit of the developing countries which had been shown throughout the proceedings of the Committee.

73. The Chairman thanked the participants for the goodwill they had displayed during the deliberations and the Secretary of the Preparatory Committee for the work he had accomplished, which had permitted the successful termination of its task. He declared the session closed.

### Establishment of the Report

74. In accordance with the decision recorded in paragraph 71, the Secretary of the Preparatory Committee circulated a draft report of the meeting to all participants on June 4, 1970, with a request that comments, corrections or additions be received by June 30, 1970. This report was established taking into account all suggestions received.

## Draft Text adopted by the Committee

### I. Modifications to the Text of the Stockholm Act

1. In the Articles mentioned below, any reference to "Protocol Regarding Developing Countries" should be replaced by a reference to "Additional Act".

- Article 21(1) and (2),
- Article 27(3),
- Article 28(1)(b)(i),
- Article 28(1)(c),
- Article 28(2)(a), (c) and (d),
- Article 30(1),
- Article 32(3).

2. In Article 22, the following words should be added at the end of both paragraph (1)(a) and paragraph (2)(a)(ii):  
" [of this Act or of the Stockholm Act] ".

3. In Article 28(2)(a), the following words should be added:

"but not before the Universal Copyright Convention as revised at . . . . . on . . . . . has been ratified, accepted or acceded to by France, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America and has entered into force".

4. In Article 29(2)(a)(i), the words "including the Additional Act" should be added after the words "Articles 1 to 21". The words "Brussels Act" should be enclosed in square brackets and followed by "[Stockholm Act]".

In Article 29(2)(a)(ii), the words "Articles 21 to 24 of the Brussels Act" should be replaced by the words "Articles 22 to 26 of the Stockholm Act".

5. Article 34 should be drafted as follows:

"After the entry into force of Articles 1 to 21 of this Act including the Additional Act, no ratification of earlier Acts of this Convention or accession thereto will be permissible. In addition, it will not be permissible, after the said date, for a country of the Union which is not bound by Articles 1 to 21

of the Stockholm Act and which has not made a declaration under Article 5(1)(a) or (b) of the Protocol Regarding Developing Countries, to make such a declaration."

### II. Draft Text of an Additional Act to the Act of . . . . . of . . . . . 1971

#### Article 1

(1) (a) Any country [of the Union at the date of the entry into force of this Act] regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to this Act, of which this Additional Act forms an integral part, and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided for in this Act may, by a notification deposited with the Director General at the time of making the said ratification or accession or thereafter, declare that it will avail itself of any or all of the reservations provided for in this Additional Act.

[(b) Any country outside the Union at the date of the entry into force of this Act and fulfilling the conditions provided by paragraph (a) above may also, if it becomes a member of the Union before the expiration of the period of . . . years from the said date, make such a declaration.]

[(c) However, any country which makes or has made a declaration according to Article 30(2)(b) may not avail itself of the reservations provided by Article 2 of this Additional Act.

(2) Any reservation so notified shall be effective for a period of ten years from the date of the entry into force of this Act, or for such part of that period as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of ten years each if, during the

year preceding the expiration of the relevant ten-year period, the country concerned deposits a further notification with the Director General. Initial notifications may also be made during these further periods of ten years in accordance with the provisions of this paragraph.

(3) Notwithstanding the provisions of paragraph (2) of this Article, a country of the Union which, in conformity with the established practice of the General Assembly of the United Nations, has ceased to be regarded as a developing country shall no longer be entitled to renew the period during which it can avail itself of the reservations referred to in paragraph (1) and, whether or not it formally withdraws them, such State shall be precluded from availing itself of the said reservations at the end of the current ten-year period, or at the end of three years after it has ceased to be a developing country, whichever period expires later.

(4) Any copies of a work already made under the reservations provided for in this Additional Act may continue to be distributed after the expiration of the period for which notifications under this Article are effective.

(5) Any country which is bound by the provisions of this Act and which has deposited a declaration or a notification in accordance with Article 31(1) with respect to the application of this Act to a particular territory, the situation of which can be regarded as analogous to that of the countries referred to in paragraph (1) of this Article, may also deposit notifications of reservations or of renewals thereof with respect to any such territory. During the effective period of such notifications, the provisions of Articles 2, 3 and 4 of this Additional Act shall be applicable to such territory.

(6) The fact that a reservation provided for in this Additional Act has been notified does not permit another country of the Union to give less protection to works of which the country of origin is the country availing itself of the reservation, than is provided for in Articles 1 to 20 of this Act.

## Article 2

Any country of the Union to which Article 1 of this Additional Act applies may, so far as printed editions are concerned, substitute for the exclusive right of translation provided for in Article 8 of this Convention a system of non-exclusive and non-transferable licenses, granted by the competent authority, under the following conditions:

### [Alternative A]

(1) If, after the expiration of one year from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in the language or, as the case may be, in one of the languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain a license to translate the work and publish the work so translated in the said language.

(2) However, in the case of a translation into a language which is of general use in one or more developed countries,

- (a) a period of three years shall be substituted for the period provided for in paragraph (1) above;
- (b) the license shall be granted only for the purpose of teaching, scholarship or research.

### [Alternative B]

(1) If, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in the language or, as the case may be, in one of the languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain a license to translate the work and publish the work so translated in the said language.

(2) However, in the case of a translation into a language which is of general use in one or more developed countries, the license shall be granted only for the purpose of teaching, scholarship or research.

### [Alternative C]

(1) If, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in the language or, as the case may be, in one of the languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain a license to translate the work and publish the work so translated in the said language.

(2) However,

- (a) if the license is requested for the purpose of teaching, scholarship or research, the period of three years provided above shall be reduced to one year;
- (b) in the case of a translation into a language which is of general use in one or more developed countries
  - (i) the said period shall be of five years;
  - (ii) the license shall be granted only for the purpose of teaching, scholarship or research.

### [Provisions common to the three alternatives]

[(3)] Any license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for, and no copies of the work so translated and published shall be exported. However, in the case of a translation into a language which is not of general use in one or more developed countries, copies so published may be imported and sold in another developing country member of the Union if the language or, as the case may be, one of the languages of such other country is the same language as that into which the work has been so translated, and if the national law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a developing country member of the

Union shall be governed by its national law and the provisions of this Convention.

[(4) After the expiry of seven years from the date of the first publication of the said work in the case of a translation into a language which is of general use in one or more developed countries, a license may be granted which is not limited to the purpose of teaching, scholarship or research.]

### Article 3

Any country of the Union to which Article 1 of this Additional Act applies may, so far as printed editions are concerned, substitute for the exclusive right of reproduction provided by Article 9 of this Convention a system of non-exclusive and non-transferable licenses granted by the competent authority under the following conditions:

(1) If, after the expiration of [three to seven] years from the date of first publication of a particular edition of a literary or artistic work, or any longer period determined by national legislation of the country referred to above, copies of such edition have not been generally distributed to the public in that country at a price corresponding to that normally charged in the country for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a license to publish such edition at that or a lower price for use in connection with systematic instructional activities.

(2) [Subject to the provisions of paragraph (3) of this Article,] the license shall not extend to the export of copies and shall be valid only for publication in the territory of the country of the Union where it has been applied for.

[(3) Any two or more countries of the Union having close cultural relations may, by notifications submitted to the Director General by each of them, declare that they are to be regarded as a single country for purposes of this Article. A license may be granted by the competent authority in one such country on behalf of all countries in the group, provided that all of the conditions provided by this Article are met by each such country.]

[(4)] Any license granted under this Article shall terminate should the owner of the right cause to be published, in the country where the license has been granted, an edition in the same language, at a comparable price and with substantially the same content as the edition published under the license; however, copies already made before the termination of the license may continue to be distributed until they are out of print.

### Article 4

(1) Any license granted under Articles 2 or 3 of this Additional Act may be granted only if the applicant, in accordance with the procedure of the country concerned, establishes either that he has requested, and has been denied, authorization by the proprietor of the right to make and publish the translation or to reproduce the edition, as the case may be, or that, after due diligence on his part, he was unable to find the owner of the right.

(2) If the owner of the right cannot be found, the applicant for a license shall send, by airmail, copies of his applica-

tion to the publisher whose name appears on the work and, if the nationality of the owner of the right is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization, or to any national or international clearing-house, which may have been designated, in a notification to that effect deposited with the Director General, by the Government of the country of which the publisher is believed to be a national. The license shall not be granted before the expiration of a period of three months from the date of dispatch of the copies of the application.

(3) The name of the author and the original title of the work or of the particular edition of the work shall be printed on all copies of the published translation or reproduction.

(4) Due provision shall be made by national legislation

(a) to assure to the owner of the right of translation or of reproduction, as the case may be, just compensation that is consistent with standards of royalties normally operating on licenses freely negotiated between persons in the two countries concerned;

(b) to assure the payment and transmittal of the compensation: should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent;

(c) to assure a correct translation of the work or an accurate reproduction of the particular edition, as the case may be.

(5) All copies published in accordance with a license granted under Article 3 above, and, in the case of a translation into a language which is of general use in one or more developed countries, all copies of the work translated and published in accordance with a license granted under Article 2 above, shall, from the time of first publication, bear notices in the appropriate language stating that the copies are available for distribution only in the country[ies] or territory[ies] to which the said license applies.

(6) Licenses may also be granted in accordance with the conditions of Article 2 above if, in respect of a translation already published in the language concerned, the editions are out of print. Licenses may also be granted in accordance with the conditions of Article 3 above if for a period of six months copies of the edition in question have not been on sale at a price corresponding to that normally charged in the country for comparable works.

(7) A license shall not be granted when the author has withdrawn from circulation all copies of the work.

### Article 5

(1) Any country of the Union may declare as from the signature of this Act, and at any time before becoming bound by Articles 1 to 21 of this Act and by this Additional Act,

(a) in the case of a country referred to in Article 1 of this Additional Act, that it intends to apply any or all of provisions of the latter to works whose country of origin is a country of the Union which admits the application of the reservations provided by this Additional Act, or

(b) that it admits the application of the reservations provided by this Additional Act to works of which it is the country of origin by countries which, upon becoming bound by Articles 1 to 21 of this Act and by this Additional Act, have notified reservations permitted under the lat-

ter, or have made a declaration of application of any or all provisions of this Additional Act.

(2) The declaration shall be made in writing and shall be deposited with the Director General. The declaration shall become effective from the date on which it is deposited.

## Working document submitted by the Director of BIRPI

### Introduction

1. In order to assist the deliberations of the Committee within the short time which has been allotted for the fulfilment of its task, the Director of BIRPI submits in this document a draft of provisions concerning the developing countries which could be inserted in the Berne Convention.

2. This draft has been established on the basis of the Stockholm (1967) Act of the Berne Convention, and takes into account on certain points the results of the work of the Ad Hoc Preparatory Committee to prepare a Draft Text of the Proposals for Revision of the Universal Copyright Convention, which met at Paris from May 11 to 16, 1970.

3. The draft is submitted to the Committee as a basis for discussion. The provisions in question are presented in the form of articles listed alphabetically, in order not to prejudice the manner in which their insertion into the Berne Convention may be effected. On this point this document contains certain remarks of a formal nature at the end.

4. At its fourteenth ordinary session held at Paris from December 15 to 19, 1969, the Permanent Committee of the Berne Union expressed the view "that the preparation for the revision of the Berne Convention should be made in accordance with the considerations stated in the Preamble to the Washington Recommendation and the specific recommendations contained therein" (Resolution No. 1). The text of this Resolution and that of the Washington Recommendation are reproduced, for convenience, in Document DA/31/5.

5. The positions of the various delegations on the results of the work of the International Copyright Joint Study Group and on the said Recommendation are mentioned in the report adopted by the Permanent Committee of the Berne Union at the conclusion of its deliberations. This report (Document CP/XIV/17) was sent to all States members of the Berne Union and published also in the BIRPI periodicals *Le Droit d'Auteur* and *Copyright* (February 1970 issue) and *La Propiedad Intelectual* (No. 1 of 1970).

### Revision of Article 21 of the Stockholm Act

6. So far as the Berne Convention is concerned, the first point made in the Washington Recommendation was that there should be a "revision of Article 21 of the Stockholm Act to separate the Protocol Regarding Developing Countries from that Act".

7. Two methods appear to be possible to give effect to point (1) of the Washington Recommendation:

- (i) either, simply to delete Article 21; in this case, the new Act of the Berne Convention would include under the heading "Article 21" simply the word "deleted";
- (ii) or, to write a new Article 21 containing a general formula indicating that the Berne Convention contains particular provisions regarding developing countries and pointing out where these provisions are to be found. This is the method used in the Stockholm Act. Some suggestions on this subject are made in paragraph 25 of this document.

### Conditional entry into force of the new Act

8. The second point made in the Washington Recommendation was that there should be a "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".

9. The necessary provision would appear in the so-called final clauses of the Berne Convention, more particularly in Article 28(2)(a). It is suggested that this Article would be redrafted as follows:

"Article 28(2)(a). Articles 1 to 21 of this Act shall enter into force, with respect to the first five countries of the Union which have deposited instruments of ratification or accession, three months after the deposit of the fifth such instrument of ratification or accession. However, this entry into force shall not take effect until the date on which the Universal Copyright Convention of September 6, 1952, as revised at . . . . . on . . . . ., shall have been ratified by France, Spain, the United Kingdom of Great Britain and Northern Ireland and the United States of America."

This wording is based upon the concept contained in paragraph (1) of Protocol 3 annexed to the Universal Copyright Convention.

### Effects of the deletion of the Stockholm Protocol on the final clauses

10. While consideration is being given to the final clauses of the Berne Convention, it appears to be useful to indicate at this stage what modifications would be needed as a consequence of the revision of Article 21 of the Stockholm Act and of the separation from that Act of the Protocol Regarding Developing Countries.

11. These modifications are purely of a drafting nature; they consist of the deletion of all references to the Protocol. The substantive clauses (Articles 1 to 20) make no mention of the Protocol and therefore require no modification.

12. The following suggestions, therefore, are made in relation to Articles 22 to 38 of the Stockholm Act:

- Articles 22, 23 and 24: no change;
- Article 25: (see paragraph 20 of this document);
- Article 26: no change;
- Article 27(1) and (2): no change;
- Article 27(3): delete the words "including the Protocol Regarding Developing Countries";
- Article 28(1)(b)(i): delete the words "and to the Protocol Regarding Developing Countries";
- Article 28(1)(c): delete;
- Article 28(1)(d): renumber as 28(1)(c); delete the reference to sub-paragraph (c); correct "sub-paragraphs" to "sub-paragraph";
- Article 28(2)(a): new draft (see paragraph 9 above);
- Article 28(2)(b): no change;
- Article 28(2)(c): delete the words "and the Protocol Regarding Developing Countries" and change the reference to "paragraph (1)(d)" to "sub-paragraph (1)(c)";
- Article 28(2)(d): delete;
- Article 29: no change, except the inclusion of a reference in paragraph (2)(a)(i) to the provisions concerning developing countries;
- Article 30: delete the words "and in the Protocol Regarding Developing Countries";
- Article 31: no change;
- Article 32: delete paragraph (3);
- Article 33: no change.

13. Article 34 of the Stockholm Act deals with the closing of earlier Acts. Given that the Protocol Regarding Developing Countries, which forms an integral part of the Stockholm Act, provides for the possibility of depositing declarations relating to the application of the Protocol, it

appears to be necessary to take account of this fact in relation to the closing of the Stockholm Act after the entry into force of the new Act.

It is therefore suggested that Article 34 be redrafted as follows:

"After the entry into force of Articles 1 to 21 [and of the provisions regarding developing countries] of this Act, no ratification of the Stockholm Act of this Convention or accession to the said Stockholm Act will be permissible. In addition, it will not be permissible, after the date of this entry into force, for a country of the Union which has signed the Stockholm Act but which is not bound by Articles 1 to 21 of that Act and which has not made a declaration as provided by Article 5(1)(a) or (b) of the Protocol Regarding Developing Countries, to make such a declaration."

14. It is suggested that Articles 35, 36, 37 and 38 remain unchanged, except for modifications of Article 37 appropriate at the time of revision in respect of references to the Government of Sweden and to the conditions for signature of the Stockholm Act.

#### **Inclusion in the Berne Convention of special arrangements in favor of developing countries**

15. The Washington Recommendation provides in point II(3) for the inclusion in the Berne Convention of a "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".

16. One method of putting this recommendation into effect would be to abandon the system of the Stockholm Protocol and, instead of establishing the permitted reservations in detail, simply to refer in the new Act of the Berne Convention to the relevant provisions of the revised Universal Copyright Convention. In this case, references to the numbering of certain articles of the revised Universal Copyright Convention would be sufficient. These would be completed by provisions based on Articles 2, 3, 4 and 6 of the Stockholm Protocol.

17. Another method would consist of preparing a complete draft of special provisions in favor of developing countries within the framework of the Berne Convention, without making any reference to the Universal Copyright Convention. As was indicated in the introduction to this document, the Director of BIRPI is submitting a draft to the Committee; this draft is contained in the annex to this document.

18. It should be noted that, by reason of the fact that this draft has been established taking into account discussions which took place in Paris from May 11 to 16, 1970, for the revision of the Universal Copyright Convention, and that these discussions were concerned essentially (apart from questions relating to the Universal Copyright Convention alone) with reservations in relation to the rights of translation and of reproduction, this draft deals only with these questions, as well as with the reservations system itself. Consequently, it contains no suggestions on other questions, such as for example that of the term of protection, which were regulated in the Stockholm Protocol.

#### **Financial contributions of the developing countries**

19. The fourth point contained in the Washington Recommendation provided for the "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".

20. Financial questions relating to the Berne Union are dealt with in Article 25 of the Stockholm Act. It is therefore in this Article that a new provision relating to suspension of contributions would have to be inserted. The following sub-paragraph (c) to paragraph (4) is suggested:

"Any country of the Union regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, which has chosen, for the purpose of contributions, to belong to Class VI or Class VII and which has ratified this Act or has acceded to it, may announce to the Assembly at one of its ordinary sessions that it wishes to suspend payment of its contributions until further notice or until it ceases, in conformity with the above-mentioned practice, to be considered as a developing country."

#### **Form and placing of the reservations concerning developing countries**

21. Independently of the modification of the administrative and final clauses of the Berne Convention, the question arises of deciding in what form and in which place to provide the special treatment to be established in favor of the developing countries, on the basis of the draft contained in the annex to this document.

22. Two methods appear to be possible. The first would consist of inserting the relevant provisions between the end of the substantive clauses and the beginning of the administrative and final clauses, that is to say between Articles 20 and 22 of the Stockholm Act. In this case, and to avoid having to change in the new Act the numbers of Articles 22 to 38, it would be necessary to make provision for Articles 21<sup>bis</sup>, 21<sup>ter</sup>, 21<sup>quater</sup>, 21<sup>quinquies</sup>, 21<sup>sexies</sup>, etc.

23. This method would appear to present some difficulties. The numbering system is complicated and hardly elegant phonetically. It could be a source of error in references, the same number being used throughout with variations only in the Latin. It would to an appreciable extent lengthen the Convention with provisions of substance which, by definition, are temporary and are reserved to certain members of the Union.

24. Another method would consist of placing these provisions in an "Additional Act", which, however, would form an integral part of the new Act. This is not new in the history of the Berne Union (see the Additional Act of Paris of 1896) and, by using this terminology, it would not run the risk of creating confusion with the Stockholm Protocol.

25. If this second method were to be chosen, Article 21 could be drafted as follows:

"Article 21. Particular provisions concerning developing countries are contained in an Additional Act which forms an integral part of this Act."

In the other case, the number 21 could be used for Article A of the draft contained in the annex to this document, 21<sup>bis</sup> for B, and so on.

#### **ANNEX**

##### *Article A*

(1) Any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to this Act [of which this Additional Act forms an integral part] and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in this Act may, by a notification deposited with the Director General at the time of making the said ratification or accession or thereafter, declare that it will avail itself of any or all of the reservations provided by Articles . . . . [of this Additional Act] by applying in its relations with other countries of the Union any or all of the provisions which are contained in the said Articles.

(2) Any reservation so notified shall be effective for ten years from the date of the entry into force of this Act with respect to the country concerned, or for such part of the ten years as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of ten years each if, during the year preceding the expiration of the relevant ten-year period, the country concerned deposits a further notification with the Director General. Notifications may also be made during these further periods of ten years in accordance with the provisions of this paragraph.

(3) Notwithstanding the provisions of paragraph (2) of this Article, a country of the Union that has ceased to be a developing country as defined in paragraph (1) shall no longer be entitled to renew the period during which it can avail itself of the reservations provided by the said paragraph (1) and, whether or not it formally withdraws them, such State shall be precluded from availing itself of the said reservations at the end of the current ten-year period, or at the end of three years after it has ceased to be a developing country, whichever period expires later. However, any copies of a work made under the reservation provided by

Article C may continue to be distributed after the expiration of the period for which notifications under this Article are effective.

(4) Any country which is bound by the provisions of this Act and which has deposited a declaration or a notification in accordance with Article 31(1) with respect to the application of this Act to a particular territory, the situation of which can be regarded as analogous to that of the countries referred to in paragraph (1) of this Article, may also deposit notifications of reservations or of renewals thereof with respect to any such territory. During the effective period of such notifications, the provisions of Articles B, C and D shall be applicable to such territory.

#### Article B

Any country of the Union to which Article A applies may substitute for the exclusive right of translation provided by Article 8 of this Act a system of non-exclusive and non-transferable licenses, granted by the competent authority, under the following conditions:

#### [Alternative A]

(1) If, after the expiration of one year from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in that country in the national language or, as the case may be, into one of the national languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain from the competent authority a non-exclusive and non-transferable license to translate the work and publish the work so translated in the said language.

(2) However, in the case of a language which is of general use in one or more developed countries,

- (a) a period of three years shall be substituted for the period provided by paragraph (1) above;
- (b) the license shall be granted only for the purpose of teaching, scholarship or research;
- (c) no copies of the work so translated and published shall be exported.

#### [Alternative B]

(1) If, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in that country in the national language or, as the case may be, into one of the national languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain from the competent authority a non-exclusive and non-transferable license to translate the work and publish the work so translated in the said language.

(2) However, in the case of a language which is of general use in one or more developed countries,

- (a) the license shall be granted only for the purpose of teaching, scholarship or research;
- (b) no copies of the work so translated and published shall be exported.

#### [Alternative C]

(1) If, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the country referred to above, a translation of such work has not been published in that country in the national language or, as the case may be, into one of the national languages of that country by the owner of the right of translation, or with his authorization, any national of such country may obtain from the competent authority a non-exclusive and non-transferable license to translate the work and publish the work so translated in the said language.

(2) However,

- (a) if the license is requested for the purpose of teaching, scholarship or research, the period of three years provided above shall be reduced to one year;

- (b) in the case of a language which is of general use in one or more developed countries, the said period shall be of five years, the license shall be granted only for the purpose of teaching, scholarship or research and no copies of the work so translated and published shall be exported.

#### [Provisions common to the three alternatives]

(3) In addition to the cases provided by the preceding paragraphs of this Article, any national of a country of the Union to which Article A applies may obtain a non-exclusive and non-transferable license to translate the work and publish the work so translated in the national language or, as the case may be, in one of the national languages of the country if, after the expiration of a period of seven years from the date of the first publication of the said work, a translation in that language has not been published in the country.

(4) The license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another developing country member of the Union if one of the national languages of such other country is the same language as that into which the work has been so translated, and if the national law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a developing country member of the Union shall be governed by its national law and its agreements.

(5) Any license granted under this Article shall be governed by the provisions of Article D; however, after the seven-year period has expired, the licensee shall be free to apply for a new license. The grant of such a new license shall be governed exclusively by the provisions of paragraphs (3) and (4) of this Article and of Article D and no further license shall be granted under paragraphs (1) and (2) of this Article.

#### Article C

Any country of the Union to which Article A applies may, so far as printed editions are concerned, substitute for the exclusive right of reproduction provided by Article 9 of this Act a system of non-exclusive and non-transferable licenses granted by the competent authority under the following conditions:

(1) If, after the expiration of [three to seven] years from the date of first publication of a particular edition of a literary or artistic work or any longer period determined by national legislation of the country referred to above, copies of such edition have not been generally distributed to the public in that country at a price corresponding to that normally charged in the country for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive license from the competent authority to publish such edition at that or a lower price for use in connection with systematic instructional activities.

(2) [Subject to the provisions of paragraph (3) of this Article], the license shall not extend to the export of copies and shall be valid only for publication in the territory of the country of the Union where it has been applied for.

[(3) Any two or more countries of the Union having close cultural relations may, by notifications submitted to the Director General by each of them, declare that they are to be regarded as a single country for purposes of this Article. A license may be granted by the competent authority in one such country on behalf of all countries in the group, provided that all of the conditions provided by this Article are met by each such country.]

#### Article D

(1) Any license granted under Articles B or C may be granted only if the applicant, in accordance with the procedure of the country concerned, establishes either that he has requested, and has been denied, authorization by the proprietor of the right to make and publish the translation or to reproduce the edition, as the case may be, or that, after due diligence on his part, he was unable to find the owner of the right.

(2) If the owner of the right cannot be found, the applicant for a license shall send, by airmail, copies of his application to the publisher

whose name appears on the work and, if the nationality of the owner of the right is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization or any national or international clearing-house which may have been designated, in a notification to that effect deposited with the Director General, by the Government of the country of which the publisher is believed to be a national. The license shall not be granted before the expiration of a period of three months from the date of dispatch of the copies of the application.

(3) The original title and the name of the author of the work or of the particular edition of the work, as the case may be, shall be printed on all copies of the published translation or reproduction.

(4) Due provision shall be made by national legislation

- (a) to assure to the owner of the right of translation or of reproduction, as the case may be, just compensation that is consistent with standards of royalties normally operating on licenses freely negotiated between persons in the two countries concerned;
- (b) to assure the payment and transmittal of the compensation: should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent;
- (c) to assure a correct translation of the work or an accurate reproduction of the particular edition, as the case may be.

(5) In the case of a translation into a language which is of general use in one or more developed countries any copies of the work translated and published in accordance with a license granted under Article B, and all copies published in accordance with a license granted under Article C, shall, from the time of first publication, bear notices in the appropriate language stating that the copies are available for distribution only in the country or territory to which the said license applies.

(6) Licenses may be granted in accordance with the conditions of Article B if, in respect of a translation already published in the language concerned, the editions are out of print. Licenses may be granted in accordance with the conditions of Article C if no copy of the edition in question is on sale at a price corresponding to that normally charged in the country for comparable works.

(7) A license shall not be granted when the author has withdrawn from circulation all copies of the work.

(8) Any license granted under Article C shall terminate should the owner of the right cause to be published, in the country where the license has been granted, an edition in the same language and with the same content as the edition published under the license; however, copies already made before the termination of the license may continue to be distributed until they are out of print.

## List of Participants

### I. President of the Permanent Committee of the Berne Union

Mr. Jorge Carlos Ribeiro, Secretary of Embassy, Brazilian Embassy, Montevideo

### II. Members of the Committee

#### France

- S. E. M. Pierre Charpentier, Ambassadeur de France
- M. André Kerever, Maître des requêtes au Conseil d'Etat
- Me Marcel Boutet, Vice-Président de la Commission de la propriété intellectuelle près le Ministère des Affaires culturelles
- M. Jean Buffin, Chef du Bureau des droits d'auteur au Ministère des Affaires culturelles
- M. Jean-Loup Tournier, Membre de la Commission de la propriété intellectuelle

#### Germany (Federal Republic)

- Mrs. Elisabeth Steup, Ministerialrätin, Federal Ministry of Justice
- Dr Eugen Ulmer, Professeur à l'Université de Munich

#### India

- Mr. Kanti Chaudhuri, I. A. S., Joint Secretary to the Government of India, Ministry of Education and Youth Services
- Mr. Subramanyaiyer Balakrishnan, Joint Secretary to the Government of India, Ministry of Home Affairs

#### Italy

- S. E. M. Pio Archi, Ambassadeur, Délégué aux Accords pour la propriété intellectuelle
- M. Gino Galtieri, Inspecteur général, Chef du Bureau de la propriété littéraire, artistique et scientifique de la Présidence du Conseil des Ministres
- M. Giuseppe Trotta, Conseiller de Cour d'appel, Conseiller juridique du Délégué
- M. Valerio De Sanctis, Avocat, Membre du Comité consultatif permanent du droit d'auteur
- M. Claudio Ferro-Luzzi, Chef de Division, Bureau de la propriété littéraire, artistique et scientifique

#### Mexico

- Sr. Lic. Arturo González Cosío, Director General del Derecho de Autor, Secretaría de Educación Pública
- Sr. Lic. Miguel Acosta, Asesor de la Dirección General del Derecho de Autor

#### Tunisia

- M. Abderrahmane Amri, Attaché de Cabinet au Ministère de la Culture
- M. Ahmed Ben Brahim, Attaché d'Ambassade, Mission permanente de Tunisie à Genève

#### United Kingdom

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

#### Yugoslavia

- Mr. Aleksandar Jelić, Director, Foreign Affairs Legal Department
- Dr Vojislav Spaić, Professeur à l'Université de Sarajevo

## III. Observers

### (a) Representatives of States party to the Universal Copyright Convention

#### Kenya

- Mr. David J. Coward, Registrar General, State Law Office
- Mr. Georges Straschnov, Director of Legal Affairs, European Broadcasting Union, Geneva
- Mr. John Ndisi, Chargé d'Affaires de Kenya in France and Permanent Delegate to Unesco, Paris

#### United States of America

- Miss Barbara A. Ringer, Assistant Register of Copyrights, Copyright Office, Library of Congress
- Mr. John H. Adams, Department of State
- Mr. Robert Hadl, Legal Adviser, Copyright Office, Library of Congress

### (b) Representatives of States members of the Berne Union

#### Austria

- Dr Helmuth Tades, Sektionsrat, Ministère fédéral de la Justice

#### Brazil

- M. Francisco Alvim, Secrétaire d'Ambassade, Délégation du Brésil près l'Unesco, Paris

**Canada**

- Mr. Finlay W. Simons, Assistant Commissioner of Patents,  
Patent Office
- Mr. Gordon E. Pallant, Chief, Printing and Publishing Division,  
Department of Industry, Trade and Commerce
- Mr. Andrew A. Keyes, Executive Officer, National Film Board  
of Canada
- M. Jacques Corbeil, Deuxième Secrétaire et Consul, Mission  
permanente du Canada à Genève

**Denmark**

- Mr. Willi Weincke, Chief of Division, Ministry of Cultural Affairs

**Finland**

- Mr. Ragnar Meinander, Head of Department, Ministry of Education

**Japan**

- Mr. Masaaki Kokubun, Assistant Head, Copyright Division,  
Agency for Cultural Affairs

**Lebanon**

- M<sup>me</sup> Ruby Homsy, Premier Secrétaire, Mission permanente du Liban à  
Genève

**Morocco**

- M. Abderrahim H'ssaïne, Directeur général, Bureau marocain  
du droit d'auteur

**Portugal**

- M. Luis Pazos Alonso, Deuxième Secrétaire, Mission permanente  
du Portugal à Genève

**Senegal**

- M. N'Déné N'Diaye, Magistrat détaché auprès du Ministère de la  
Culture et de l'Information

**Switzerland**

- M. Jean-Louis Marro, Chef de la Section du droit d'auteur, Bureau  
fédéral de la propriété intellectuelle

**(c) United Nations Educational, Scientific and Cultural  
Organization (Unesco)**

- Mr. H. Saba, Assistant Director-General for International Standards  
and Legal Affairs, representing the Director-General
- Miss Marie-Claude Dock, Head, Copyright Division

**(d) Observers from authors' organizations**

- Mr. Léon Malaplate, Secretary-General of the International Confedera-  
tion of Societies of Authors and Composers (CISAC), Paris
- Mr. Roger Fernay, Executive Vice-President of the International  
Writers Guild (IVG), Paris

**(e) Observer from publishers' organizations**

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

**(f) Observer from organizations of legal circles working  
for copyright protection**

- Mr. Henri Desbois, Professor at the Faculty of Law and Economic  
Science, Paris, Permanent Secretary of the International Literary  
and Artistic Association (ALAI), Paris

**(g) Observers from Organizations of Users of Copyright  
Works**

- Mr. Ola Ellwyn, Lawyer, International Federation of Film Producers'  
Associations (FIAPF), Stockholm
- Mr. Stephan Stewart, Director General, International Federation  
of the Phonographic Industry (IFPI), London
- Mr. J. A. L. Sterling, Deputy Director General, International  
Federation of the Phonographic Industry (IFPI), London

**IV. BIRPI**

- Professor G. H. C. Bodenhansen, Director
- Mr. Claude Masouyé, Senior Counsellor, Head, External and Public  
Relations Division
- Mr. Vojtěch Strnad, Counsellor, Head, Copyright Division
- Mr. Roger Harben, External Relations Officer
- Mr. Mihailo Stojanović, Copyright Division

**V. Officers of the Committee**

- Chairman: Professor Eugen Ulmer (Germany (Federal Republic))  
(Allemagne (République fédérale))
- Vice-Chairman: Sr. Lic. Arturo González Cosío (Mexico)
- Secretariat: Mr. Claude Masouyé (BIRPI)

# NATIONAL LEGISLATION

## REPUBLIC OF SOUTH AFRICA

### Performers' Protection Act, 1967

(No. 11, of 1967) \*

An Act to provide for the protection of performers of literary and artistic works

#### *Interpretation of terms*

1. — (1) In this Act, unless the context otherwise indicates —

- (i) "broadcasting" means broadcasting by means of a broadcasting service as defined in section 1 of the Radio Act, 1952 (Act No. 3 of 1952); and "broadcast" has a corresponding meaning;
- (ii) "Corporation" means the South African Broadcasting Corporation established by the Broadcasting Act, 1936 (Act No. 22 of 1936);
- (iii) "literary and artistic works" include musical, dramatic and dramatico-musical works;
- (iv) "performer" means an actor, singer, musician, dancer or other person who acts, sings, delivers, declaims, plays in or otherwise performs, literary or artistic works;
- (v) "phonogram" means any exclusively aural fixation of sounds of a performance or of other sounds;
- (vi) "rebroadcasting" means the simultaneous broadcasting by one broadcasting organization of the broadcast of another broadcasting organization; and "rebroadcast" has a corresponding meaning;
- (vii) "reproduction" means a copy made of a fixation of a performance.

(2) Except in so far as the context otherwise requires, any reference in this Act to the doing of an act in relation to a performance, a fixation of a performance or a reproduction of such a fixation, shall be taken to include a reference to the doing of that act in relation to a substantial part of the performance, the fixation or the reproduction, as the case may be.

#### *Relation to copyright protection*

2. — The rights created by this Act shall in no way restrict or affect the rights provided for by any other law relating to copyright in literary and artistic works.

#### *Protection of performers' rights in respect of performances in the Republic*

3. — Performers shall be granted the protection provided for in section 5 of this Act in respect of their performances —

- (a) taking place,
  - (b) broadcast without a fixation, or
  - (c) first fixed,
- in the Republic.

#### *Extension of protection of performers' rights to performances in convention countries*

4. — The protection granted to performers by this Act shall, subject to such limitations as may hereinafter be prescribed, be extended automatically to performers in respect of their performances —

- (a) taking place,
- (b) broadcast without a fixation, or
- (c) first fixed,

in a country which, being a party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, by law grants in its territory similar rights to performers in respect of their performances in the Republic.

#### *Restrictions on use of performances*

5. — (1) Subject to the provisions of this Act, no person shall without the consent of the performer —

- (a) broadcast or communicate to the public a performance of such performer, unless the performance used in the broadcast or the public communication is itself already a broadcast performance or is made from a fixation of the performance or from a reproduction of such a fixation; or
- (b) make a fixation of the unfixed performance of such performer; or
- (c) make a reproduction of a fixation of a performance of such performer —
  - (i) if the original fixation, other than a fixation excluded by section 8 from the necessity for obtaining the consent of the performer, was itself made without his consent; or
  - (ii) if the reproduction is made for purposes other than those in respect of which such performer gave his consent to the making of the original fixation or of a reproduction thereof; or
  - (iii) if the original fixation was made in accordance with the provisions of section 8, and the reproduction is made for purposes not covered by those provisions.

(2) In the absence of an agreement to the contrary, a performer's consent to the broadcasting of his performance shall be deemed to include his consent to the rebroadcasting of his performance, the fixation of his performance for broadcasting purposes, and the reproduction for broadcasting purposes of such fixation.

\* This Act was published in the *Government Gazette of the Republic of South Africa*, No. 1665, of February 22, 1967, and came into force on December 30, 1967.

### Collective performances

6. — (1) Where several performers as a group take part in the same performance, it shall suffice if the consent required under section 5 is given by the manager or other authority in charge of the group or, failing such authority, by the leader of the group.

(2) In the case referred to in subsection (1) a single payment for the use of the performance shall, unless otherwise stipulated, be made to the manager or other authority in charge of the group or, failing such manager or authority, to the leader of the group, and the manager or authority or leader, as the case may be, shall distribute the proceeds as agreed by the performers or, in default of agreement, the right to remuneration of the respective performers shall be determined in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), or alternatively, at the option of the majority of the performers, by the Copyright Tribunal established by the Copyright Act, 1965 (Act No. 63 of 1965).

### Term of protection

7. — The prohibition against the use of a performance without the consent of the performer as provided for in section 5, shall commence upon the day when the performance first took place or, if incorporated in a phonogram, when it was first fixed on such phonogram, and shall continue for a period of twenty years calculated from the end of the calendar year in which the performance took place or was incorporated in a phonogram, as the case may be.

### Exceptions from prohibition against use of performance without the consent of the performer

8. — (1) If a performer consents to the incorporation of his performance in a visual or audio-visual fixation, section 5(1) shall cease to apply in respect of the performance so fixed.

(2) A performance, a fixation of a performance or a reproduction of such a fixation may be used without the consent required by section 5 —

- (a) if it is for the purposes of private study or personal and private use; or
- (b) if it is for the purposes of criticism or review or for the purpose of reporting on current events, provided that not more than short excerpts from the performance are used and, whenever possible, the performer's name or the names of the leading performers are acknowledged; or
- (c) if it is for the purposes of teaching or scientific research; or
- (d) if it is for the purpose of legal proceedings; or
- (e) if it is for the demonstration of recording, amplifying or similar apparatus, provided that the demonstration is made by a licensed dealer on his premises to a specific client.

(3) (a) The Corporation may make by means of its own facilities a fixation of a performance and reproductions of such fixation without the consent required by section 5, provided that, unless otherwise stipulated —

- (i) the fixation and the reproductions thereof are used solely in the broadcasts made by the Corporation;
- (ii) the fixation and any reproductions thereof, if they are not of an exceptional documentary character, are destroyed before the end of the period of six months commencing on the day on which the fixation was first made; and
- (iii) the Corporation pays to the performer, whose performance is so used, in respect of each use of the fixation or of any reproduction thereof, an equitable remuneration, which, in the absence of agreement, shall be determined in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), or alternatively, at the option of the performer, by the Copyright Tribunal established by the Copyright Act, 1965 (Act No. 63 of 1965).

b) The fixation and the reproductions thereof made under the provisions of this subsection may, on the grounds of their exceptional documentary character, be preserved in the archives of the Corporation but shall, subject to the provisions of this Act, not be further used without the consent of the performer.

(4) The general exceptions from copyright protection of literary and artistic works provided by sections 7 and 10 of the Copyright Act, 1965, shall apply *mutatis mutandis* in respect of performances.

### Offences and penalties

9. — (1) Any person —

- (a) who knowingly contravenes any of the provisions of section 5(1); or
- (b) who knowingly sells or lets for hire or distributes for the purposes of trade, or by way of trade exposes or offers for sale or hire, any fixation of a performance or a reproduction of such a fixation made in contravention of section 5; or
- (c) who makes, or has in his possession, a plate or similar contrivance for the purpose of making fixations of a performance or reproductions of such fixations in contravention of section 5,

shall be guilty of an offence and liable on conviction —

- (i) in the case of a contravention referred to in paragraph (a), to a fine not exceeding fifty rand or to imprisonment for a period not exceeding three months, and the court convicting him may in addition, on the application of the performer whose rights have been infringed, and without proof of any damages, order him to pay to the performer as damages such amount, not exceeding one hundred rand, as may in the circumstances of the case appear to it to be reasonable;
- (ii) in the case of a contravention of paragraph (b), to a fine not exceeding ten rand in respect of each fixation or reproduction; and
- (iii) in the case of a contravention of paragraph (c), to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) Any order made under subsection (1) for the payment of damages to a performer may be executed as if it were a civil judgment in favour of that performer.

*Damages or interdict for infringement of performers' rights*

10. — Any person who infringes the rights of any performer may be sued in any court of law by such performer for —

- (a) an amount not exceeding one hundred rand, and such court may, without proof of any damages in addition to the costs of the action, award as damages such amount, not exceeding the said amount, as may in the circumstances of the case appear to it to be reasonable; or
- (b) damages or an interdict or for both damages and an interdict, and such court may, in addition to the costs of the action, award such damages as may appear to it to have been suffered by the performer, or award as damages such amount as it may determine in terms of paragraph a), or grant an interdict or both award damages and grant an interdict.

*Power of the court in respect of fixations, reproductions and plates made in contravention of this Act*

11. — The court before which any legal proceedings are taken under this Act may order that all fixations, reproductions of fixations or plates (including contrivances similar to plates) in the possession of the accused or the defendant, which appear to the court to have been made in contravention of this Act, be destroyed or otherwise dealt with as the court may in its discretion determine.

*Consent on behalf of performers and criminal liability of unauthorized agent*

12. — (1) Where in any legal proceedings under this Act it is proved —

- (a) that the fixation, the reproduction of a fixation, the broadcast or the public communication to which the legal proceedings relate, was made with the consent of a person who, at the time of giving the consent, represented that he was authorized by the performers to give it on their behalf, and

- (b) that the person who made the fixation, the reproduction of a fixation, the broadcast or the public communication had no reasonable grounds for believing that the person giving the consent was not so authorized,

the provisions of this Act shall apply as if it had been proved that the performers had themselves consented to the making of the fixation, the reproduction of the fixation or the broadcast or the public communication, as the case may be.

(2) Where —

- (a) a fixation, a reproduction of a fixation, a broadcast or a public communication is made with the consent of a person who, at the time of giving the consent, represented that he was authorized by the performers to give it on their behalf when, to his knowledge, he was not so authorized, and
- (b) if legal proceedings were brought against the person to whom the consent was given, the consent would by virtue of subsection (1) afford a defence to those legal proceedings,

the person who gave the consent shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand, or to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment.

*Contracts in respect of use of performances*

13. — Notwithstanding the provisions of this Act any performer may enter into any contract with any user or prospective user of his performance in respect of the use of his performance, but such contract shall be enforceable only in the Republic.

*Savings*

14. — (1) The rights acquired by any performer prior to the commencement of this Act shall not be prejudiced by this Act.

(2) This Act shall not apply to performances which took place before the commencement of this Act.

*Short title and date of commencement*

15. — This Act shall be called the Performers' Protection Act, 1967, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

# INTERNATIONAL ACTIVITIES

## Ad Hoc Preparatory Committee to prepare a Draft Text of the Proposals for Revision of the Universal Copyright Convention

(Paris, May 11 to 16, 1970)

### Report

#### I. Introduction

1. The Ad Hoc Preparatory Committee set up in accordance with resolution 60 (X) of the Intergovernmental Copyright Committee, with a view to preparing a draft text of the proposals for revision of the Universal Copyright Convention, met in Paris from 11 to 15 May 1970 at Unesco Headquarters.

2. The eight Member States of the Preparatory Committee were represented, namely: France, India, Italy, Kenya, Mexico, Tunisia, United Kingdom, United States of America.

3. The Chairman of the Intergovernmental Copyright Committee, observers from the Federal Republic of Germany and Yugoslavia, the representative of the Director-General of Unesco and the Director of the United International Bureaux for the Protection of Intellectual Property took part in the meeting.

4. The following also attended the meeting as non-participating observers: ten States Parties to the Universal Copyright Convention or members of the Berne Union other than those mentioned in paragraphs 2 and 3 above, two persons for organizations representing authors, one person for organizations representing publishers, one person for organizations representing legal circles working for copyright protection, and three persons for organizations representing users of copyrighted works, who were appointed at the Information Meeting convened by the Director-General of Unesco on 16 March 1970 in implementation of paragraph 11(b)(v) of resolution 60 (X) of the Intergovernmental Copyright Committee.

5. The list of participants is annexed to this report (Annex II).

6. On behalf of Mr. René Maheu, Director-General, Mr. Saba, Assistant Director-General for International Standards and Legal Affairs, extended a most cordial welcome to the participants.

#### *Election of the Chairman*

7. The Ad Hoc Preparatory Committee then proceeded to elect its Chairman.

8. At the proposal of the delegation of India, Miss B. Ringer, head of the delegation of the United States of America, was unanimously elected Chairman of the Ad Hoc Preparatory Committee.

#### *Adoption of the Rules of Procedure*

9. The Ad Hoc Preparatory Committee adopted the provisional Rules of Procedure prepared by the Unesco Secre-

tariat, on the understanding that the States and representatives of international non-governmental organizations following the work of the Preparatory Committee as non-participating observers might submit to the Secretariat a request to take the floor, which would in principle be granted by the Chairman in the light of the requirements of the time-table.

#### *Election of a Vice-Chairman*

10. On the proposal of the delegation of France the Ad Hoc Preparatory Committee unanimously elected Mr. R. Saïd, head of the Tunisian delegation, Vice-Chairman.

#### *Drafting of the Report*

11. In view of the limited time available for fulfilling its task of preparing "a draft text of the proposals for revision of the Universal Copyright Convention", the Committee decided to depart from the practice followed by the Intergovernmental Copyright Committee, whose report contains a detailed summary record of the discussions and is discussed in detail before adoption. The Committee decided that its Chairman would be responsible for drafting the report, with the help of the Vice-Chairman and the Secretariat. The report would contain a draft text of the proposals for revision of the Universal Copyright Convention, together with alternatives, where necessary, for specific questions on which unanimity could not be achieved. In addition, very brief statements of principle made when the text was being adopted and submitted in writing to the Secretariat might be included in the report if the Committee so decided. Further the text which served as a basis for the discussion, and such proposals or amendments submitted during meetings as the Committee decided to include, would be annexed to the report.

#### *Adoption of the agenda*

12. The Preparatory Committee then adopted the provisional agenda contained in document IGC/PREPCOM/1.

## II. Preparation of a Draft Text of the Proposals for Revision of the Universal Copyright Convention

13. At the opening of its work the Committee had before it the preliminary documentation prepared by the Secretariat, which included the draft texts or comments communicated by States Parties to the Universal Copyright Convention and international non-governmental organizations (documents IGC/PREPCOM/3 and Add. 1-3, IGC/PREPCOM/4 and Add. 1-2, IGC/PREPCOM/5, IGC/PREPCOM/6 and Corr.).

14. Reference is made to documentation submitted during meetings under the paragraph concerned.

15. Upon the proposal of the United Kingdom, supported by Kenya and France, the Committee decided to proceed with its task by taking, as a basis for the discussion leading to the preparation of a draft text of the proposals for revision of the Universal Copyright Convention, the draft text submitted by the United States of America (hereinafter designated "the working text"), which appears in document IGC/PREPCOM/3 Add. 1 and is reproduced in Annex I of this report.

16. The following part of the report contains the results of the Committee's discussion subsumed by reference to the existing articles of, or to proposed new articles for, the Universal Copyright Convention.

#### *Article I and proposed Article IV<sup>bis</sup>*

17. The Committee proceeded to consider Article I of the working text together with the draft texts proposed by Italy (document IGC/PREPCOM/3) and by France (document IGC/PREPCOM/7) relating thereto, both of which appear in Annex I of this report. These draft texts were referred to a Working Group consisting of France, the Federal Republic of Germany, Italy, Kenya and the United States of America, which formulated a proposal for the definition of basic rights and exceptions to these rights (document IGC/PREPCOM/8), reproduced in Annex I of this report. The Committee decided to retain for inclusion in Article IV<sup>bis</sup> in the draft text set forth in paragraph 48 below, paragraph 1 and Alternatives A and B for paragraph 2 as set forth in the proposal of the Working Group. The representative of the United Kingdom suggested that consideration be given by the Intergovernmental Copyright Committee to adding the following words to the end of Alternative A: "... and not unreasonably prejudice the legitimate interests of the authors".

18. The representative of Italy, in supporting Alternative A for Article IV<sup>bis</sup>, paragraph 2, observed that the reference to a "reasonable degree of effective protection" indicated implicit acceptance of the general principle of fair remuneration for any compulsory licences, for example in the field of broadcasting. Further, he recalled his statements relating to the advisability of referring in paragraph 1 of the said Article to the right of adaptation.

19. One of the observers from organizations representing authors thought he should draw the Committee's attention to the wording of the first paragraph of Article IV<sup>bis</sup>. The basic rights of authors actually included the right of translation and the right of adaptation, apart from those mentioned in that paragraph. The right of translation was indeed dealt with in Article V, but the right of adaptation did not appear in any article of the Convention. The question of mentioning the right of adaptation at the end of the first paragraph of Article IV<sup>bis</sup> would have to be considered, at least in the future.

20. The observer from organizations representing legal circles working for copyright protection endorsed the view of the observer from organizations representing authors and urged that the right of adaptation be mentioned in the first paragraph of Article IV<sup>bis</sup>.

#### *Article II*

21. The Committee noted that in Article II of the working text the wording of paragraphs 1 and 2 of Article II of

the Universal Copyright Convention had been repeated with the addition in each paragraph of the phrase "as well as the protection specially granted by this revised Convention". It was understood that this phrase merely confirmed the interpretation of the Universal Copyright Convention adopted in 1952. The Committee accepted this phrase.

#### *Article III*

22. No proposals were made for modifications of this Article.

#### *Article IV*

23. It was decided to maintain the text of Article IV as it appears in the Universal Copyright Convention adopted in 1952.

#### *Article IV<sup>bis</sup>*

24. See paragraphs 17 to 20 above.

#### *Article V*

25. The Committee decided to begin by considering what exceptions should be made to the basic rights for the benefit of the developing countries and then, if necessary, revert to the dispositions of Article V.

#### *Article V<sup>bis</sup> to V<sup>quater</sup>*

26. After considering the proposals made by the Italian Government (document IGC/PREPCOM/3) contained in Annex I of this report, the Committee proceeded to consider the dispositions for the benefit of the developing countries contained in the working text (Article V<sup>bis</sup> and V<sup>ter</sup>).

##### *(i) Article V<sup>bis</sup>*

27. In the light of the Committee's initial examination of the working text, a draft of Article V<sup>bis</sup> was prepared for further consideration by the Committee (document IGC/PREPCOM/9) and is reproduced in Annex I of this report. After certain modifications were made to this draft in the course of the Committee's ensuing discussion, the Committee proposed for the provisions of Article V<sup>bis</sup> the text which appears as such in paragraph 48 below.

##### *(ii) Article V<sup>ter</sup>*

28. In the course of its discussion of Article V<sup>ter</sup> of the working text, the Committee charged a drafting group composed of the Chairman of the Committee and the representatives of France, Kenya and the United Kingdom to prepare a draft text concerning the relaxation of the right of translation for the benefit of developing countries. The three alternative proposals of the Drafting Group (document IGC/PREPCOM/10) for Article V<sup>ter</sup> are reproduced in Annex I of this report. The Preparatory Committee considered it advisable to submit the three alternatives drawn up by the Drafting Group to the Intergovernmental Copyright Committee. (See Article V<sup>ter</sup> of the draft text appearing in paragraph 48 below.) In so doing, the Preparatory Committee believed it appropriate to mention that the participants who supported one or another of these alternatives pointed out that in each case the alternative in question contained conditions and concessions with counterbalanced each other and that it should therefore be considered as constituting an indivisible whole.

29. The representative of the United Kingdom stated that provided that other parts of the draft were satisfactory, his government would be content to accept any of the three alternatives.

30. The Brazilian observer believed that the drafting of the standards concerning the time-limits relating to the right of translation was contrary to the spirit in which the Convention should be revised. In his view, revision had been undertaken with a view to enabling the developing countries to have easier access to the culture of the developed countries. The proposed text, however, drew a linguistic distinction between developing countries, and thus gave rise to discrimination between them in regard to access to the culture of the developed countries.

31. On behalf of the developing countries, it was declared that, while preferring Alternative A to B and C, these countries reserve the right to submit another text to the next session of the Intergovernmental Committee.

(iii) *Article V<sup>quater</sup>*

32. The Committee decided that there should be a separate article on the relaxation of the right of reproduction. A proposal relating thereto, reproduced in Annex I of this report, was prepared (document IGC/PREPCOM/11), based on the discussion of Article V<sup>ter</sup> in the working text. The text of this proposal so prepared appears as Article V<sup>quater</sup> in the text set forth in paragraph 48 below.

33. On behalf of the developing countries it was declared that they accepted the deletion of the right to export but only on condition that the term provided for in paragraph (1)(a) of Article V<sup>quater</sup> is not more than three years.

34. The representative of the United Kingdom felt that the term provided for in paragraph (1)(a) of Article V<sup>quater</sup> should be seven years and that there should be no right to export.

35. The representative of France considered that the term of three years proposed by the developing countries was too short; on the other hand, the term of seven years proposed by the representative of the United Kingdom could, in his opinion, be slightly reduced.

36. The observer on behalf of publishers' organizations stated that it was of the very greatest importance that there be no export of reproductions made under compulsory licence. This was not to prevent exports as such, but on the contrary precisely to encourage original publishers and their licensees, by protecting their international markets, to produce low-priced editions and export them to all developing countries. This was the only economic way to serve the need, and hence the International Publishers' Association recommended a delay of seven years before a compulsory licence to give maximum encouragement to editions under voluntary licence.

*Articles VI and VII*

37. No changes were proposed for Articles VI and VII as they appear in the Universal Copyright Convention adopted in 1952 other than the proposals referred to in paragraph 39 below.

*Articles VIII and IX*

38. Articles VIII and IX of the working text were considered together by the Committee. It decided to include the draft text so submitted for these Articles in the draft text set forth in paragraph 48 below, subject however to certain modifications to such text for Article IX, namely, the inclusion of the words "Parties to this Revised Convention" after the initial words "Contracting States" and the placement of the last sentence in brackets. By such brackets the Committee calls more particularly the attention of the Intergovernmental Copyright Committee to the existence of an issue on the matter.

*Articles VI, VII, X, XIII, XV, XVI, XVIII, XIX and XX*

39. In view of its decision on the draft text for Articles VIII and IX, the Committee accepted the proposals reflected in the working text according to which the word "Revised" is to be inserted before "Convention" in the draft text of certain provisions of the Articles (with the exception of Article II) which are set forth so modified in paragraph 48 below.

*Article XI and resolution concerning Article XI*

40. The Committee considered together the draft text of Article XI and the resolution concerning it contained in the working text. In the light of the discussion of the Intergovernmental Copyright Committee called for by this draft, the number of its members and their selection, the Committee decided to propose fixing the number of States members of such Committee at eighteen and to adopt as the criteria for their selection those set forth in paragraph 4(c) of the draft text resolution concerning Article XI contained in the working text.

41. After considering the procedure for the designation of the members of the Intergovernmental Copyright Committee called for by the draft text of the resolution concerning Article XI, contained in the working text, the Committee decided, with respect to such resolution, to include in paragraph 48 below the text of the draft so submitted with two modifications, namely, the deletion of paragraph (c), the substance of which the Committee had previously to include in Article XI, and the placement in brackets of the provision in paragraph 1 thereof. By such brackets the Committee calls more particularly the attention of the Intergovernmental Copyright Committee to the existence of an issue on the matter.

42. During the discussion the observer for Canada stated that while reserving Canada's position on other matters he wished to indicate his strong support for the criteria proposed in paragraph 4(c) of the draft resolution concerning Article XI contained in the working text and recommended that these criteria be specifically included in paragraph 3 of that Article.

43. The representatives of India, Kenya, Mexico and Tunisia proposed that at least nine of the eighteen seats on the Intergovernmental Committee should be allocated to Contracting States which are developing countries and that all members of the Committee should initially be elected at the Revision Conference. Thereafter elections should be in accordance with the existing procedure.

*Articles XII, XIV, XXI*

44. The draft text for Articles XII, XIV and XXI contained in the working text were retained by the Committee for inclusion in the draft text set forth in paragraph 48 below, with the addition of a reference to Article V<sup>quater</sup> in the provisions of Article XXI and the reference to the Swiss Federal Council of the said Article being left open.

*Article XVII and Appendix Declaration relating thereto*

45. The Committee decided to include the draft text of Article XVII contained in the working text in the draft text which is set forth in paragraph 48 below.

46. For the Appendix Declaration relating to Article XVII the Committee also decided to include in the draft text set forth in paragraph 48 below, the draft text contained in the working text subject, however, to certain modifications. Paragraph (b) should read as follows: "Where a Contracting State is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, the provisions of paragraph (a) shall not be applicable as long as such State may avail itself of the exceptions provided for by this Revised Convention in accordance with the provisions of paragraph 3 of Article V<sup>bis</sup>." In paragraph (c) the text appearing as paragraph (b) of the 1952 Convention should be retained.

47. During consideration of the Appendix Declaration, the Italian representative explained the reasons for the Italian proposal, consisting in a Protocol to accompany the two Conventions, containing certain provisions in favour of the developing countries.

### III. Draft Text of the Proposals for Revision of the Universal Copyright Convention

48. The draft text of the proposals for revision of the Universal Copyright Convention, resulting from the work of the Committee, is set forth below.

*Preamble*

[No change]

*Article I*

[No change]

*Article II*

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory, as well as the protection specially granted by this Convention.

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals, as well as the protection specially granted by this Convention.

3. For the purpose of this Convention any Contracting State may, by domestic legislation, assimilate to its own nationals any person domiciled in that State.

*Article III*

[No change, except insert "Revised" before "Convention" in each case]

*Article IV*

[No change, except insert "Revised" before "Convention" in each case]

*Article IV<sup>bis</sup>*

1. Each Contracting State undertakes to recognize, by suitable provisions for the benefit of authors and other copyright holders, in particular the basic rights constituting the author's economic right, namely, the rights of reproduction by any means, of public performance and of broadcasting.

## 2. [Alternative A]

National legislation shall be empowered to make exceptions that do not conflict with the spirit and provisions of the present Convention to the rights mentioned in paragraph 1 above. Any States making use of this power shall nevertheless accord a reasonable degree of effective protection to each of the rights to which exception has been made.

## [Alternative B]

It shall be matter for national legislation:

- (i) to permit the reproduction of protected works in certain special cases, provided that such reproduction does not conflict with the normal exploitation of the work and does not prejudice the legitimate interests of the authors;
- (ii) to permit the public performance of protected works in certain special cases, particularly in cases where the performance would not be made for profit-making purposes;
- (iii) to impose reservations and conditions on the rights of authorizing the broadcasting of protected works and of authorizing the sound recording of musical works including the texts of those works.

*Article V*

[No change, except insert "Revised" before "Convention"]

*Article V<sup>bis</sup>*

1. Any Contracting State that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, and that has ratified, accepted, or acceded to this Revised Convention, may, by a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization at the time of said ratification, acceptance or accession or thereafter, avail itself of any or all of the exceptions provided by Articles V<sup>ter</sup> and V<sup>quater</sup>.

2. Any notification under Articles V<sup>ter</sup> and V<sup>quater</sup> shall be effective for ten years from the date of coming into force of this Revised Convention, or for such part of that ten years as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of ten years each if, during the year preceding the expiration of the relevant ten-year period, the Contracting State deposits a further notification with the Director-General of Unesco. Notifications may also be made during these further periods of ten years in accordance with the provisions of this paragraph.

3. Notwithstanding the provisions of paragraph 2 of this Article, a Contracting State that has ceased to be a developing country as defined in paragraph 1 shall no longer be entitled to renew the period during which it can avail itself of the exceptions provided by Articles V<sup>ter</sup> and V<sup>quater</sup> and, whether or not it formally withdraws them, such State shall be precluded from availing itself of said exceptions at the end of the current ten-year period, or at the end of three years after it has ceased to be a developing country, whichever period expires later.

However, any copies of a work made under the exceptions provided by Articles V<sup>ter</sup> and V<sup>quater</sup> may continue to be distributed after expiration of the period for which notifications under Article V<sup>bis</sup> were effective.

4. Any Contracting State that has ratified, accepted or acceded to this revised Convention, and that has deposited a notification in accordance with Article XIII with respect to the application of this Revised Convention to a particular country or territory, the situation of which can be regarded as analogous to that of the States referred to in paragraph 1 of this Article, may also deposit notifications of exceptions and renewals thereof under this Article with respect to any such country or territory. During the effective period of such notifications, the provisions of Articles V<sup>ter</sup> and V<sup>quater</sup> may be applied with respect to such country or territory.

#### *Article V<sup>ter</sup>*

##### [Alternative A]

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of one year or any longer period determined by its national legislation.

2. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the period shall be three years instead of one;
- (b) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (c) no copies shall be exported.

3. Subject to paragraph 4 of this Article, any licence granted under this Article shall otherwise be governed by the provisions of Article V; however, after the said seven-year period has expired, the licensee shall be free to seek a new licence. The grant of such a new licence shall be governed exclusively by the provisions of Article V and no further licence shall be granted under this Article.

4. (a) Any copy published in accordance with a licence granted under paragraph 2 of this Article shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies.

(b) With respect to licences granted under paragraphs 1 or 2 of this Article, due provision shall be made to assure:

- (i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and

- (ii) payment and transmittal of the compensation: however should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

##### [Alternative B]

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of three years or any longer period determined by its national legislation. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (b) no copies shall be exported.

2. Subject to paragraph 3 of this Article, any licence granted under this Article shall otherwise be governed by the provisions of Article V; however, after the said seven-year period has expired, the licensee shall be free to seek a new licence. The grant of such a new licence shall be governed exclusively by the provisions of Article V and no further licence shall be granted under this Article.

3. (a) Any copy published in accordance with a licence granted in the case of a translation into a language of general use in one or more developed countries shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies.

(b) With respect to licences granted under paragraph 1 of this Article, due provision shall be made to assure:

- (i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and
- (ii) payment and transmittal of the compensation: however should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

##### [Alternative C]

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of three years or any longer period determined by its national legislation. The said period of three years shall be reduced to one where the licence is granted for the purpose of teaching, scholarship or research. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the periods of three years and one year provided above shall be increased to five years;
- (b) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (c) no copies shall be exported.

2. Subject to paragraph 3 of this Article, any licence granted under this Article shall otherwise be governed by the

provisions of Article V; however, after the said seven-year period has expired, the licensee shall be free to seek a new licence. The grant of such a new licence shall be governed exclusively by the provisions of Article V and no further licence shall be granted under this Article.

3. (a) Any copy published in accordance with a licence granted in the case of a translation into a language of general use in one or more developed countries shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies.

(b) With respect to licences granted under paragraph 1 of this Article, due provision shall be made to assure:

- (i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned;
- (ii) payment and transmittal of the compensation: however should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

#### *Article V<sup>quater</sup>*

1. Any Contracting State to which Article V<sup>bis</sup> applies may adopt the following provisions:

(a) If, after the expiration of [3 to 7] years from the date of first publication of a particular edition of a literary or artistic work or any longer period determined by national legislation of the State, copies of such edition have not been generally distributed to the public in that State at a price corresponding to that normally charged in the State for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive licence from the competent authority to publish such edition at that or a lower price for use in connection with systematic instructional activities; provided that such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to publish such work, or that, after due diligence on his part, he was unable to find the owner of the right. A licence may also be granted on the same conditions if authorized copies of the particular edition have ceased to be generally available to the public at a price corresponding to that charged in the State for comparable works.

(b) If the owner of the right of reproduction cannot be found, the applicant for a licence shall send, by air mail, copies of his application to the publisher whose name appears on the work and to any national clearing-house identified as such in a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization by the State to which the publisher is believed to belong. He shall also send a copy to any international copyright information centre established by said Organization to assist in the clearance of rights in works such as that in question. The licence shall not be granted before the expiration

of a period of three months from the date of dispatch of the copies of the application.

(c) The name of the author and the title of the particular edition of the work shall be printed on all copies of the published reproduction. [Subject to sub-paragraph (a) of paragraph 2, the licence shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for.] The licence shall not be transferable by the licensee.

(d) Due provision shall be made by domestic legislation to assure an accurate reproduction of the particular edition in question. The licence shall not be granted when the author has withdrawn from circulation all copies of that edition.

2. The exceptions provided by paragraph 1 of this Article are subject to the following provisions:

[(a) Any two or more Contracting States having close cultural relations may, by notifications submitted to the Director-General of Unesco by each of them, declare that they are to be regarded as a single Contracting State for purposes of this Article. A licence may be granted by the competent authority in one such State on behalf of all States in the group, provided that all of the conditions provided by this Article are met by each such State.]

(b) Any copy published in accordance with a licence granted under paragraph 1 of this Article shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State [or States] to which said licence applies.

(c) With respect to licences granted under paragraph 1 of this Article, due provision shall be made to assure:

- (i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and
- (ii) payment and transmittal of the compensation: however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(d) Whenever copies of an edition of a work are generally distributed to the public in the Contracting State, by or under the authority of the copyright owner, at a price corresponding to that charged in the State for comparable works, any licence issued under this Article shall terminate if such edition is in the same language and is substantially the same in content as the edition published under the licence; provided, however, that any copies already made before the licence is terminated may continue to be distributed.

#### *Article VI*

[No change, except insert "Revised" before "Convention"]

#### *Article VII*

[No change, except insert "Revised" before "Convention"]

#### *Article VIII*

1. This Revised Convention, which shall bear the date of . . . shall be deposited with the Director-General of the

United Nations Educational, Scientific and Cultural Organization and shall remain open for signature by all States Party to the Convention signed at Geneva on 6 September 1952 for a period of 120 days after the date of this Revised Convention. It shall be subject to ratification or acceptance by the signatory States.

2. Any State which has not signed this Revised Convention may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

#### *Article IX*

1. This Revised Convention shall come into force three months after the deposit of twelve instruments of ratification, acceptance or accession.

2. Subsequently, this Revised Convention shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

3. Accession to this Revised Convention by a State not Party to the Convention signed at Geneva on 6 September 1952 shall also constitute accession to that Convention; however, if its instrument of accession is deposited before this Revised Convention comes into force, such State may make its accession to the 1952 Convention conditional upon the coming into force of this Revised Convention. After the coming into force of this Revised Convention, no State may accede solely to the 1952 Convention.

—4. Contracting States Parties to this Revised Convention shall, with respect to their obligations to all States Party to either the 1952 Convention or this Revised Convention, be governed by the provisions of this Revised Convention, and it is understood that Contracting States not Party to this Revised Convention shall, with respect to their obligations to all other States Party to either the 1952 Convention, or this Revised Convention, be governed by the provisions of the 1952 Convention. However, any State Party to this Revised Convention may, by notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization, declare that it will apply only the provisions of the 1952 Convention in its relations with Contracting States not Party to this Revised Convention, and any Contracting State not Party to this Revised Convention may, by notification deposited as aforesaid, declare that it will admit the application only of the 1952 Convention in its relations with States also Party to this Revised Convention. [Any such notification shall be made by 1972.]

#### *Article X*

[No change, except insert "Revised" before "Convention"]

#### *Article XI*

1. An Intergovernmental Committee is hereby established with the following duties:

(a) to study the problems concerning the application and operation of this Convention;

(b) to make preparation for periodic revisions of this Convention;

(c) to study any other problems concerning the international protection of copyright, in co-operation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary and Artistic Works and the Organization of American States;

(d) to inform the Contracting States as to its activities.

2. The Committee shall consist of the representatives of eighteen Contracting States.

3. The Committee shall be selected with due consideration to a fair balance of national interests on the basis of factors of geographical location, population, languages, stage of development and relative status as an importer or exporter of copyrighted works.

4. The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director-General of the World Intellectual Property Organization, and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

#### *Article XII*

The Intergovernmental Committee shall convene a conference for revision of the Revised Convention whenever it deems necessary, or at the request of at least ten Contracting States Party to the 1952 Convention.

#### *Article XIII*

[No change, except insert "Revised" before "Convention" in each case]

#### *Article XIV*

1. Any Contracting State may denounce this Revised Convention in its own name or on behalf of all or any of the countries or territories as to which a notification has been given under Article XIII. The denunciation shall be made by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization. Such denunciation shall also constitute denunciation of the 1952 Convention.

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

#### *Article XV*

[No change, except insert "Revised" before "Convention"]

#### *Article XVI*

[No change, except insert "Revised" before "Convention"]

#### *Article XVII*

1. This Revised Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a declaration has been annexed to the present Article. This declaration

is an integral part of this Revised Convention for the States bound by the Berne Convention on 1 January 1951, or which have or may become bound to it at a later date. The signature of this Revised Convention by such States shall also constitute signature of the said Declaration, and ratification, acceptance or accession by such States shall include the Declaration, as well as this Revised Convention.

#### Article XVIII

[No change, except insert "Revised" before "Convention"]

#### Article XIX

[No change, except insert "Revised" before "Convention"]

#### Article XX

[No change, except insert "Revised" before "Convention"]

#### Article XXI

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall send duly certified copies of this Revised Convention to the States interested, to . . . . and to the Secretary-General of the United Nations for registration by him.

He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this Revised Convention comes into force, the notifications under Articles V<sup>bis</sup>, V<sup>ter</sup>, V<sup>quater</sup>, IX and XIII and denunciations under Article XIV of this Revised Convention.

#### Appendix Declaration relating to Article XVII

The States which are members of the International Union for the Protection of Literary and Artistic Works, and which are signatories to this Revised Convention,

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the coexistence of the Convention of Berne and the Universal Convention,

Recognizing the temporary need of some States to adjust their level of copyright protection in accordance with their relative stage of cultural, social and economic development,

Have, by common agreement, accepted the terms of the following declaration:

(a) Except as provided by paragraph (b), works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the International Union created by the said Convention, after 1 January 1951 shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;

(b) Where a Contracting State is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, the provisions of paragraph (a) shall not be applicable as long as such State may avail itself of the exceptions provided for by this Revised Convention in accordance with the provisions of paragraph 3 of Article V<sup>bis</sup>;

(c) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union in so far as it relates to the protection of works having as

their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention.

#### Resolution concerning Article XI

The Conference for Revision of the Universal Copyright Convention,

Having considered the problems relating to the Intergovernmental Committee provided for in Article XI of the Revised Universal Copyright Convention, to which this resolution is annexed,

Resolves that,

[1. At its inception, the Committee shall include representatives of the twelve States members of the Intergovernmental Committee established under Article XI of the 1952 Convention and the resolution annexed to it, and, in addition, representatives of the following States: . . . .]

2. As soon as this Revised Convention comes into force the Committee as provided in paragraph 1 shall be deemed to be constituted in accordance with Article XI of the Revised Convention.

3. The first session of the Committee shall take place within one year after the coming into force of this Revised Convention; thereafter the Committee shall meet in ordinary session at intervals of no more than two years.

4. The Committee shall elect its Chairman and one Vice-Chairman. It shall establish its rules of procedure having regard to the following principles:

(a) All members represented on the Committee at its inception shall serve for an initial term of six years and until the end of the first ordinary session held thereafter. At such ordinary session of the Committee and each ordinary session held thereafter, the terms of not less than one-fourth and not more than one-third of the total membership of the Committee shall expire.

(b) The rules governing the procedure whereby the Committee shall fill vacancies, the order in which terms of membership expire, eligibility for re-election, and election procedures, shall be based upon a balancing of the opposing needs for continuity of membership and rotation of representation, as well as the factors provided in paragraph 3 of Article XI.

Expresses the wish that the United Nations Educational, Scientific and Cultural Organization provide its Secretariat.

#### IV. Protection of Phonograms

49. One of the observers for the organizations representing the users of copyrighted works appealed to the Committee to consider means for taking immediate steps to outlaw the making and importation of illicit records.

50. The delegations of France, India, Mexico, United Kingdom and United States of America declared that they supported this suggestion.

51. The representative of Italy pointed out that this question, important as it was, related to the protection of neighbouring rights and not to international conventions for the protection of literary, artistic and scientific works.

52. The representative of Kenya opposed the inclusion of the protection of records in the Universal Copyright Convention and suggested that it should be dealt with in conjunction with the problem of pirating satellite television transmissions.

53. One of the observers from organizations representing authors, while recognizing the seriousness of the problem, said that he did not think it was relevant to copyright conventions. It should be considered in connection with the Rome Convention on neighbouring rights.

### V. Closing of the Meeting

54. At the close of its deliberations, the Ad Hoc Preparatory Committee adopted the present report.

55. The representative of France spoke for all the participants when he complimented the Chairman of the Committee on his skill, authority and resource in conducting the discussions.

56. The Chairman thanked the Committee for their confidence in him, and the Secretariat for their collaboration and valuable assistance.

57. The representative of the Director-General of Unesco thanked the participants for the work they had done and observed that its results augured well for the successful future of international copyright.

58. The Chairman then closed the proceedings.

## ANNEX I

### Working Documents

#### *Articles I and IV<sup>bis</sup>*

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add.1) <sup>1</sup>

#### *Article I*

1. Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works and paintings, engravings and sculpture.

2. Any Contracting State that grants to authors and other copyright proprietors protection equivalent to that provided for in articles 1 to 20 of the Berne Convention for the Protection of Literary and Artistic Works as revised at Stockholm on 14 July 1967 shall be deemed to provide adequate and effective protection within the meaning of paragraph 1.

3. However, if a Contracting State grants to authors and other copyright proprietors the rights of reproduction (including sound and visual recording), public performance and broadcasting, the fact that the exceptions to those rights differ in special cases from those provided in the above-mentioned articles of the Stockholm revision of the Berne Convention shall not be taken to mean that with respect to those rights such State fails to provide adequate and effective protection within the meaning of paragraph 1. <sup>2</sup>

<sup>1</sup> In this article and in other articles of the draft text submitted by the United States of America deletions are indicated by square brackets, and additions are printed in italics.

<sup>2</sup> This draft adopts the approach of referring to the rights of reproduction, public performance, and broadcasting in the context of the obligation to provide adequate and effective protection in Article I. During informal preliminary discussions of UCC revision among various individuals from UCC member countries, an alternative proposal was

#### Draft Text Submitted by Italy

(Document IGC/PREPCOM/3)

#### *Article I*

##### *Add two new paragraphs to Article I*

In particular, each Contracting State undertakes to recognize, by suitable provisions and taking into account the provisions of Article IV<sup>bis</sup> for the benefit of the authors and other copyright holders, the basic rights constituting the author's economic right, namely, the rights of reproduction by any means, of public performance and of broadcasting.

Independent of the author's economic rights and even after transfer of such rights or of their exercise, the author shall retain the right to claim the authorship of his work.

#### *Article IV<sup>bis</sup> (new)*

1. It shall be a matter for domestic legislation in the Contracting States to determine the conditions under which the rights mentioned in paragraph 2 of Article I shall be exercised, in cases where the protected work is to be used for broadcasting or for educational or scientific purposes. These conditions of exercise shall in no way affect the right of the author or other copyright holders to obtain just compensation.

2. It shall be a matter for legislation in the Contracting States to permit the reproduction of protected works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

*Note:* As regards the right of reproduction, copies of the work reproduced without the author's consent (paragraph 1 of Article IV<sup>bis</sup>) cannot be exported to another country without the agreement of the assigns.

#### Draft Text Submitted by France

(Document IGC/PREPCOM/7)

#### *Article I*

##### *Add three new paragraphs*

2. In particular, each Contracting State undertakes to recognize, by suitable provisions for the benefit of authors and other copyright holders, the basic rights constituting the author's economic right, namely, the rights of reproduction by any means, of public performance and of broadcasting.

3. Independent of the author's economic rights and even after transfer of such rights or their exercise, the author shall retain the right to claim the authorship of his work.

4. It shall be open to national legislatures to provide for exceptions to the rights mentioned in paragraph 2 above. Such exceptions shall not conflict with the normal exploitation of the work nor unreasonably prejudice the legitimate interests of the author.

#### Draft Proposal by the Working Group on the Definition of Basic Rights and Exceptions to these Rights

(Document IGC/PREPCOM/8)

#### *Article IV<sup>bis</sup>*

1. Each Contracting State undertakes to recognize, by suitable provisions for the benefit of authors and other copyright holders, in particular the basic rights constituting the author's economic right, namely, the rights of reproduction by any means, of public performance and of broadcasting.

also the subject of consideration. This would involve a new article (Article IV<sup>bis</sup>), which, after stating that copyright shall include the exclusive rights of reproduction, public performance and broadcasting, would provide that a State could make any exceptions to those rights permitted by the Stockholm text, and, with respect to the right of public performance, further exceptions in special cases, particularly non-profit performances.

## 2. [Alternative A]

National legislation shall be empowered to make exceptions that do not conflict with the spirit and provisions of the present Convention to the rights mentioned in paragraph 1 above. Any States making use of this power shall nevertheless accord a reasonable degree of effective protection to each of the rights to which exception has been made.

## [Alternative B]

It shall be a matter for national legislation:

- (i) to permit the reproduction of protected works in certain special cases, provided that such reproduction does not conflict with the normal exploitation of the work and does not prejudice the legitimate interests of the authors;
- (ii) to permit the public performance of protected works in certain special cases, particularly in cases where the performance is not made for profit-making purposes;
- (iii) to impose reservations and conditions on the rights of authorizing the broadcasting of protected works and of authorizing the sound recording of musical works including the texts of those works.

## [Alternative C]

Without prejudice to the provisions of Article V, national legislation shall be empowered to make exceptions to the rights mentioned in paragraph 2 above or to lay down the conditions under which they shall be exercised. In any event, the said conditions shall not prejudice the right belonging to the author or any other copyright holders to obtain fair remuneration.

**Article II****Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory, *as well as the protection specially granted by this revised Convention.*

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals, *as well as the protection specially granted by this revised Convention.*

3. For the purpose of this Convention any Contracting State may, by domestic legislation, assimilate to its own nationals any person domiciled in that State.

**Article IV****Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

[No change, except in paragraph 2 add "Revised" before "Convention" in each case]

**Article V****Proposal submitted by Italy**

(Document IGC/PREPCOM/3)

As regards the right of translation, paragraph 2 of Article V is amended to reduce the period of seven years.

**Article V<sup>bis</sup>****Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

1. Any Contracting State that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, and that has ratified, accepted, or acceded to this revised Convention, may, by a notification deposited with the Director-

General of the United Nations Educational, Scientific and Cultural Organization at the time of said ratification, acceptance or accession or thereafter, avail itself of any or all of the exceptions provided by Article V<sup>ter</sup>.

2. Any notification under Article V<sup>ter</sup> shall be effective for ten years from the date of deposit of the notification or from the date of coming into force of this revised Convention, whichever occurs later, and may be renewed for further periods of ten years each if, during the years preceding the expiration of the relevant ten-year period, the Contracting State deposits a further notification with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. Notwithstanding the provisions of paragraph 2 of this article, a Contracting State that has ceased to be a developing country as defined in paragraph 1 shall no longer be entitled to renew the period during which it can avail itself of the exceptions provided by Article V<sup>ter</sup> and, whether or not it formally withdraws them, such State shall be precluded from availing itself of said exceptions at the end of the current ten-year period, or at the end of three years after it has ceased to be a developing country, whichever period expires later.

4. Any Contracting State that has ratified, accepted, or acceded to this revised Convention, and that has deposited a notification in accordance with Article XIII with respect to the application of this revised Convention to a particular country or territory, may also deposit notifications of exceptions and renewals thereof under this article with respect to any such country or territory. During the effective period of such notifications, the provisions of Article V<sup>ter</sup> may be applied with respect to such country or territory.

**Draft of Article V<sup>bis</sup> Established on the Basis of the Discussions of the Preparatory Committee**

(Document IGC/PREPCOM/9)

1. Any Contracting State that is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, and that has ratified, accepted, or acceded to this Convention, may, by a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization at the time of said ratification, acceptance or accession or thereafter, avail itself of any or all of the exceptions provided by Article V<sup>ter</sup>.

2. Any notification under Article V<sup>ter</sup> shall be effective for ten years from the date of coming into force of this Convention, or for such part of that ten years as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of ten years each if, during the year preceding the expiration of the relevant ten-year period, the Contracting State deposits a further notification with the Director-General of Unesco. Notifications may also be made during these further periods of ten years in accordance with the provisions of this paragraph.

3. Notwithstanding the provisions of paragraph 2 of this article, a Contracting State that has ceased to be a developing country as defined in paragraph 1 shall no longer be entitled to renew the period during which it can avail itself of the exceptions provided by Article V<sup>ter</sup> and, whether or not it formally withdraws them, such State shall be precluded from availing itself of said exceptions at the end of the current ten-year period, or at the end of three years after it has ceased to be a developing country, whichever period expires later.

However, any copies of a work made under the exceptions provided by Article V<sup>ter</sup> may continue to be sold after expiration of the period for which notifications under Article V<sup>bis</sup> were effective.

4. Any Contracting State that has ratified, accepted or acceded to this Convention, and that has deposited a notification in accordance with Article XIII with respect to the application of this Convention to a particular country or territory, the situation of which can be regarded as analogous to that of the States referred to in paragraph 1 of this article, may also deposit notifications of exceptions and renewals thereof under this article with respect to any such country or territory. During the effective period of such notifications, the provisions of Article V<sup>ter</sup> may be applied with respect to such country or territory.

*Articles V<sup>ter</sup> and V<sup>quater</sup>***Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

*Article V<sup>ter</sup>*

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of three years or any longer period determined by its national legislation. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (b) the provisions of Article V permitting the export of copies under certain circumstances shall not apply.

Any licence granted under this paragraph shall be subject to the requirements of Article V as modified by paragraph 3 of this article; however, after the said seven-year period has expired, the licensee shall be free to seek a new licence. The grant of such a new licence shall be governed exclusively by the provisions of Article V; provided, however, that the provisions of paragraph 3(c) of this article shall remain applicable.

2. Any Contracting State to which Article V<sup>bis</sup> applies may, subject to the requirements of paragraph 3 of this article, adopt the following provisions:

(a) If, after the expiration of        years from the date of first publication of a particular version of a literary or artistic work intended for use in schools or other educational establishments,<sup>3</sup> or any longer period determined by national legislation of the State, copies of such version have not been generally distributed to the public in that State at a price corresponding to that normally charged in the State for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive licence from the competent authority to reproduce and publish such version; provided that such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to produce and publish such work, or that, after due diligence on his part he was unable to find the owner of the right. A licence may also be granted on the same conditions if an authorized edition of the particular version has ceased to be generally available to the public at a price corresponding to that charged in the State for comparable works.

(b) If the owner of the right of reproduction cannot be found, the applicant for a licence shall send, by air mail, copies of his application to the publisher whose name appears on the work and to any national clearinghouse identified as such in a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization by the State to which the publisher is believed to belong. He shall also send a copy to any international copyright information centre established by said Organization to assist in the clearance of rights in works such as that in question. The licence shall not be granted before the expiration of a period of        months from the date of dispatch of the copies of the application.

(c) The name of the author and the title of the particular version of the work shall be printed on all copies of the published reproduction. Subject to sub-paragraph (a) of paragraph 3, the licence shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for. The licence shall not be transferable by the licensee.

(d) Due provision shall be made by domestic legislation to assure an accurate reproduction of the particular version in question. The licence shall not be granted when the author has withdrawn from circulation all copies of that version.

<sup>3</sup> It is for consideration whether, instead of limiting the scope of the paragraph to works intended for use in schools or other educational establishments, the provision should make the availability of a compulsory licence dependent upon the purpose of the use. For example, the licence could be granted for any type of work, but only "for purposes of use in systematic instructional activities".

3. The exceptions provided by paragraphs 1 and 2 of this Article are subject to the following provisions:

(a) Any two or more Contracting States having close cultural relations may, by notifications submitted to the Director-General of Unesco by each of them, declare that they are to be regarded as a single Contracting State for purposes of this Article. A licence may be granted by the competent authority in one such State on behalf of all States in the group, provided that all of the conditions provided by this article are met by each such State.

(b) Any copy published in accordance with a licence granted under paragraph 1 or paragraph 2 of this article shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State or States to which said licence applies.

(c) With respect to licences granted under paragraphs 1 or 2 of this article, due provision shall be made to assure:

(i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and

(ii) payment and transmittal of the compensation: however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(d) Whenever copies of an edition of a work are generally distributed to the public in the Contracting State, by or under the authority of the copyright owner at a price corresponding to that charged in the State for comparable works, any licence issued under this article shall terminate if such edition is in the same language and is substantially the same in content as the version published under the licence; provided, however, that any copies already made before the licence is terminated may continue to be sold.

**Proposals for Article V<sup>ter</sup> Established by the Drafting Group  
on the Relaxation of the Right of Translation for the Benefit  
of Developing Countries**

(Document IGC/PREPCOM/10)

*Article V<sup>ter</sup>*

[Alternative A]

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of one year or any longer period determined by its national legislation.

2. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the period shall be three years instead of one;
- (b) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (c) no copies shall be exported.

3. Subject to paragraph 4 of this Article, any licence granted under this Article shall otherwise be governed by the provisions of Article V; however, after the said seven-year period has expired, the licensee shall be free to seek a new licence. The grant of such a new licence shall be governed exclusively by the provisions of Article V and no further licence shall be granted under this article.

4. (a) Any copy published in accordance with a licence granted under paragraph 2 of this Article shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies.

(b) With respect to licences granted under paragraphs 1 or 2 of this Article, due provision shall be made to assure:

- (i) that the licence carried with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and

- (ii) payment and transmittal of the compensation: however should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

[Alternative B]

1. (Same text as appears in the first two sentences and as in (a) and (b) thereunder of paragraph 1 of Article V<sup>ter</sup> of the draft text of the United States of America.)

2. (Same text as in paragraph 3 of Alternative A above.)

3. (Same text as in paragraph 4 of Alternative A above except for an appropriate adjustment as to the numbers of the paragraphs referred to.)

[Alternative C]

1. Any Contracting State to which Article V<sup>bis</sup> applies may substitute for the period of seven years provided in paragraph 2 of Article V the period of three years or any longer period determined by its national legislation. The said period of three years shall be reduced to one where the licence is granted for the purpose of teaching, scholarship or research. However, in the case of a translation into a language of general use in one or more developed countries:

- (a) the periods of three years and one year provided above shall be increased to five years;
- (b) the licence shall be granted only for the purpose of teaching, scholarship or research; and
- (c) no copies shall be exported.

2. (Same text as in paragraph 3 of Alternative A above.)

3. (Same text as in paragraph 4 of Alternative A above except for an appropriate adjustment as to the numbers of the paragraphs referred to.)

**Draft of Article V<sup>quater</sup> Concerning the Relaxation of the Right  
of Reproduction for the Benefit of Developing Countries  
Established on the Basis of the Discussions  
of the Preparatory Committee  
(Document IGC/PREPCOM/11)**

1. Any Contracting State to which Article V<sup>bis</sup> applies may adopt the following provisions:

(a) If, after the expiration of [3 to 7] years from the date of first publication of a particular edition of a literary or artistic work or any longer period determined by national legislation of the State, copies of such edition have not been generally distributed to the public in that State at a price corresponding to that normally charged in the State for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive licence from the competent authority to publish such edition at that or a lower price for use in connection with systematic instructional activities; provided that such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to publish such work, or that, after due diligence on his part he was unable to find the owner of the right. A licence may also be granted on the same conditions if authorized copies of the particular edition have ceased to be generally available to the public at a price corresponding to that charged in the State for comparable works.

(b) If the owner of the right of reproduction cannot be found, the applicant for a licence shall send, by air mail, copies of his application to the publisher whose name appears on the work and to any national clearinghouse identified as such in a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization by the State to which the publisher is believed to belong. He shall also send a copy to any international copyright information centre established by said Organization to assist in the clearance of rights in works such as that in question. The licence shall not be granted before the expiration of a period of three months from the date of dispatch of the copies of the application.

(c) The name of the author and the title of the particular edition of the work shall be printed on all copies of the published reproduction. [Subject to sub-paragraph (a) of paragraph 2, the licence shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for.] The licence shall not be transferable by the licensee.

(d) Due provision shall be made by domestic legislation to assure an accurate reproduction of the particular edition in question. The licence shall not be granted when the author has withdrawn from circulation all copies of that edition.

2. The exceptions provided by paragraph 1 of this Article are subject to the following provisions:

[(a) Any two or more Contracting States having close cultural relations may, by notifications submitted to the Director-General of Unesco by each of them, declare that they are to be regarded as a single Contracting State for purposes of this Article. A licence may be granted by the competent authority in one such State on behalf of all States in the group, provided that all of the conditions provided by this Article are met by each such State.]<sup>4</sup>

(b) Any copy published in accordance with a licence granted under paragraph 1 of this Article shall, from the time of its first publication, bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State [or States] to which said licence applies.

(c) With respect to licences granted under paragraph 1 of this Article, due provision shall be made to assure:

- (i) that the licence carries with it a just compensation that is consistent with standards of royalties normally operating on licences freely negotiated between persons in the two countries concerned; and
- (ii) payment and transmittal of the compensation: however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(d) Whenever copies of an edition of a work are generally distributed to the public in the Contracting State, by or under the authority of the copyright owner, at a price corresponding to that charged in the State for comparable works, any licence issued under this Article shall terminate if such edition is in the same language and is substantially the same in content as the edition published under the licence; provided, however, that any copies already made before the licence is terminated may continue to be distributed.

**Article VI**

**Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article VII**

**Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article VIII**

**Draft Text Submitted by the United States of America**

(Document IGC/PREPCOM/3 Add. 1)

1. This *Revised* Convention, which shall bear the date of [6 September 1952] shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization and shall remain open for signature by all States party to the Convention signed at Geneva

<sup>4</sup> Some members of the Committee have indicated that they would be prepared to forego the export facilities envisaged in this paragraph should the time-limit referred to in paragraph 1(a) be reduced.

on 6 September 1952 for a period of 120 days after the [that] date of this *Revised Convention*. It shall be subject to ratification or acceptance by the signatory States.

2. Any State which has not signed this *Revised Convention* may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### Article IX

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

1. This *Revised Convention* shall come into force three months after the deposit of twelve instruments of ratification, acceptance or accession [among which there shall be those of four States which are not members of the International Union for the Protection of Literary and Artistic Works].

2. Subsequently, this *Revised Convention* shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

3. *Accession to this Revised Convention by a State not party to the Convention signed at Geneva on 6 September 1952, shall also constitute accession to that Convention; however, if its instrument of accession is deposited before this Revised Convention comes into force, such State may make its accession to the 1952 Convention conditional upon the coming into force of this Revised Convention. After the coming into force of this Revised Convention, no State may accede solely to the 1952 Convention.*

4. *Contracting States shall, with respect to their obligations to all States party to either the 1952 Convention or this Revised Convention, be governed by the provisions of this Revised Convention, and it is understood that Contracting States not party to this Revised Convention shall, with respect to their obligations to all other States party to either the 1952 Convention, or this Revised Convention, be governed by the provisions of the 1952 Convention. However, any State party to this Revised Convention may, by notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization, declare that it will apply only the provisions of the 1952 Convention in its relations with Contracting States not party to this Revised Convention, and any Contracting State not party to this Revised Convention may, by notification deposited as aforesaid, declare that it will admit the application only of the 1952 Convention in its relations with States also party to this Revised Convention. Any such notification shall be made by . . . . . 1972.*

#### Draft Text Submitted by Italy

(Document IGC/PREPCOM/3)

Replace paragraph 1 by the following:

This Convention shall come into force two months after the deposit of six instruments of ratification, acceptance or accession, among which shall be the ratifications of Spain, the United States of America, France and the United Kingdom.

### Article X

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

### Article XI

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

1. An Intergovernmental Committee is hereby established with the following duties:

(a) to study the problems concerning the application and operation of this Convention;

- (b) to make preparation for periodic revisions of this Convention;
- (c) to study any other problems concerning the international protection of copyright, in co-operation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary and Artistic Works and the Organization of American States;
- (d) to inform the Contracting States as to its activities.

2. The Committee shall consist of the representatives of [twelve Contracting States to] *one-fourth of the total number of States Party to the 1952 Convention. In establishing the number of seats to be filled, any remainder after division by four shall be treated as a whole number.*

3. *The Committee shall be selected with due consideration to fair geographical representation and in conformity with the resolution relating to this Article, annexed to this Revised Convention.*

4. The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director-General of the World Intellectual Property Organization, [of the Bureau of the International Union for the Protection of Literary and Artistic Works] and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

#### Draft Text Submitted by Italy

(Document IGC/PREPCOM/3)

Amend paragraph 2 to read as follows:

1. The number of States members of the Intergovernmental Committee shall be equal to one-quarter of the number of States Parties to the Universal Copyright Convention. The members of the Committee shall be selected . . . . .

### Article XII

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

The Intergovernmental Committee shall convene a conference for revision of the *Revised Convention* whenever it deems necessary, or at the request of at least ten Contracting States *Party to the 1952 Convention* [or of a majority of the Contracting States if there are less than twenty Contracting States].

### Article XIII

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention" in each case]

### Article XIV

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

1. Any Contracting State may denounce this *Revised Convention* in its own name or on behalf of all or any of the countries or territories as to which a notification has been given under Article XIII. The denunciation shall be made by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization. *Such denunciation shall also constitute denunciation of the 1952 Convention.*

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

### Article XV

#### Draft Text Submitted by the United States of America

(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article XVI****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article XVII****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

1. This *Revised* Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a declaration has been annexed to the present article. This declaration is an integral part of this *Revised* Convention for the States bound by the Berne Convention on 1 January 1951, or which have or may become bound to it at a later date. The signature of this *Revised* Convention by such States shall also constitute signature of the said Declaration, and ratification, acceptance or accession by such States shall include the Declaration, as well as this *Revised* Convention.

**Article XVIII****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article XIX****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article XX****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

[No change, except insert "Revised" before "Convention"]

**Article XXI****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall send duly certified copies of this *Revised* Convention to the States interested, to the Swiss Federal Council and to the Secretary-General of the United Nations for registration by him.

He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this *Revised* Convention comes into force, the notifications under Articles V<sup>bis</sup>, V<sup>ter</sup>, IX, XIII [of this Convention] and denunciations under Article XIV of this *Revised* Convention.

**Appendix Declaration relating to Article XVII****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

The States which are members of the International Union for the Protection of Literary and Artistic Works, and which are signatories to this *Revised* [the Universal Copyright] Convention.

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the coexistence of the Convention of Berne and the Universal Convention.

Recognizing the temporary need of some States to adjust their level of copyright protection in accordance with their relative stage of cultural, social and economic development.

Have, by common agreement, accepted the terms of the following declaration:

- (a) Except as provided by paragraph (b), works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the International Union created by the said Convention, after 1 January 1951 shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;
- (b) Where a Contracting State that is a developing country has deposited a notification in accordance with Article V<sup>bis</sup> of the *Revised* Universal Copyright Convention, the provisions of paragraph (a) shall not be applicable to works by nationals of, or first published in, such State, during the effective period of such deposit;
- (c) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union in so far as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention, except where the relevant Act of the Berne Convention specifically provides for such application.

**Resolution concerning Article XI****Draft Text Submitted by the United States of America**  
(Document IGC/PREPCOM/3 Add. 1)

The Conference for Revision of the Universal Copyright Convention, Having considered the problems relating to the Intergovernmental Committee provided for in Article XI of the *Revised* Universal Copyright Convention, to which this resolution is annexed,

**Resolves that**

1. At its inception, the Committee shall include representatives of the twelve States members of the Intergovernmental Committee established under Article XI of the 1952 Convention and the resolution annexed to it, and, in addition, representatives of the following States:

2. As soon as this *Revised* Convention comes into force the Committee as provided in paragraph 1 shall be deemed to be constituted in accordance with Article XI of the *Revised* Convention.

3. The first session of the Committee shall take place within one year after the coming into force of this *Revised* Convention; thereafter the Committee shall meet in ordinary session at intervals of no more than two years.

4. The Committee shall elect its Chairman and one Vice-Chairman. It shall establish its rules of procedure having regard to the following principles:

- (a) All members represented on the Committee at its inception shall serve for an initial term of six years and until the end of the first ordinary session held thereafter. At such ordinary session of the Committee and each ordinary session held thereafter, the terms of not less than one-fourth and not more than one-third of the total membership of the Committee shall expire.
- (b) The rules governing the procedure whereby the Committee shall fill vacancies, the order in which terms of membership expire, eligibility for re-election, and election procedures, shall be based upon a balancing of the opposing needs for continuity of membership and rotation of representation, as well as the factors provided in paragraph (c).
- (c) In fulfilling its obligation under paragraph 3 of Article XI of this Act, to give due consideration to fair geographical representation, the Committee shall attempt to the greatest extent possible to provide a fair balance of national interests on the basis of factors of geographical location, population, languages, stage of development and relative status as an importer or exporter of copyrighted works.

Expresses the wish that the United Nations Educational, Scientific and Cultural Organization provide its Secretariat.

**ANNEX II****List of Participants**

Names and titles in the following list are reproduced as handed in to the Secretariat by the delegations concerned.

**I. Chairman of the Intergovernmental Copyright Committee**

Mr. Jorge Carlos Ribeiro, Secretary of Embassy, Embassy of Brazil, Montevideo (Uruguay)

**II. Members of the Committee****France**

S. Exc. M. Pierre Charpentier, Ambassadeur  
M. André Kerever, Maître de requêtes au Conseil d'Etat  
M<sup>e</sup> Marcel Boutet, Vice-Président de la Commission de la propriété intellectuelle  
M. J. Buffin, Agent supérieur, Chef du Bureau des droits d'auteur au Ministère des affaires culturelles  
M. Pierre Lunet, Conseiller des affaires étrangères à la Direction générale des relations culturelles, scientifiques et techniques  
M. Jean-Loup Tournier, Membre de la Commission de la propriété intellectuelle

**India**

Mr. Kanti Chaudhuri, I. A. S., Joint Secretary to the Government of India, Ministry of Education and Youth Services  
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**Italy**

M. Gino Galtieri, Inspecteur général, Chef du Bureau de la propriété littéraire, artistique et scientifique de la Présidence du Conseil des Ministres  
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M. Valerio De Sanctis, Avocat, Membre du Comité consultatif permanent du droit d'auteur

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

**Mexico**

Lic. Prof. Arturo González Cosío, Director General de Derecho de Autor, Secretaría de Educación Pública  
Lic. Miguel Acosta Romero, Asesor de la Dirección General de Derecho de Autor

**Tunisia**

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M. Abderrahman el Amri, Attaché de Cabinet au Ministère des affaires culturelles

**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. E. Barker, O. B. E., British Copyright Council

**United States of America**

Miss Barbara Ringer, Assistant Register of Copyrights, Library of Congress  
Mr. Robert Hadl, Legal Adviser, Copyright Office, Library of Congress  
Mr. John H. Adams, Business Practices Division, Commercial Affairs and Business Activities, Bureau of Economic Affairs, Department of State

**III. Observers****(a) Representatives of States members of the Berne Union****Federal Republic of Germany**

Professor Dr. Eugen Ulmer, University of Munich  
Mrs. Elisabeth Steup, Ministerialrätin, Bundesministerium der Justiz  
Dr. Manfred Günther, Legationsrat, Federal Ministry of Foreign Affairs

**Yugoslavia**

Mr. Aleksandar Jelić, Director, Foreign Affairs Legal Department  
Professeur Dr Vojislav Spaić, Université de Sarajevo

**(b) Representatives of other governments****Brazil**

M. Francisco Alvim, Délégation permanente du Brésil auprès de l'Unesco

**Canada**

M. F. W. Simons, Commissaire adjoint des brevets, Ministère de la consommation et des corporations  
M. G. Pallant, Chef, Division des éditions et impressions, Ministère de l'industrie et du commerce  
M. A. A. Keyes, Préposé de l'administration, Office national du film  
M. Jacques Corbeil, Deuxième Secrétaire et Consul, Mission permanente du Canada à Genève

**Denmark**

Mr. Willi Weincke, Head of Division, Ministry of Cultural Affairs  
Mr. Johannes Nørup-Nielsen, Secretary, Ministry of Cultural Affairs

**Finland**

Mr. Ragnar Meinander, Director of General Affairs, Ministry of Education

**Japan**

Mr. Masaaki Kokubun, Assistant Head, Copyright Division, Cultural Affairs Department, Agency for Cultural Affairs

**Lebanon**

Mlle S. Tabbara, Premier Secrétaire de l'Ambassade du Liban auprès de l'Unesco

**Morocco**

Mme Bounafâa, Attaché culturel, Ambassade du Maroc auprès de l'Unesco

**Sweden**

Mr. H. Danelius, Legal Adviser, Ministry of Justice

**Switzerland**

M. J. L. Marro, Chef de section au Bureau fédéral de la propriété intellectuelle

**Venezuela**

Dr M. Perez-Badell, Premier Secrétaire, Délégation permanente du Venezuela auprès de l'Unesco

(c) Representatives of international intergovernmental organizations

*United Nations Educational, Scientific and Cultural Organization (Unesco)*

M. H. Saba, Sous-Directeur général pour les normes internationales et les affaires juridiques, Représentant du Directeur général

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

Professeur G. H. C. Bodenhausen, Directeur

M. Claude Masouyé, Conseiller supérieur, Chef de la Division des relations extérieures

(d) Observers of organizations representing authors

M. Léon Malaplate, Secrétaire général, Confédération internationale des sociétés d'auteurs et compositeurs

M. Roger Fernay, Vice-Président exécutif, Syndicat international des auteurs

(e) Observer from the organization representing publishers

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

(f) Observer from the organizations representing legal circles working for the copyright protection

M. Henri Desbois, Professeur à la Faculté de droit et des sciences économiques de Paris, Secrétaire perpétuel de l'Association littéraire et artistique internationale

(g) Observers from the organizations representing users of copyrighted works

Mr. Ola Ellwyn, Barrister, Legal Adviser to the International Federation of Film Producers' Associations

Mr. J. A. L. Sterling, Deputy Director-General, International Federation of the Phonographic Industry

M. G. Straschnov, Directeur des affaires juridiques, Union européenne de radiodiffusion

#### IV. Secretariat

*United Nations Educational, Scientific and Cultural Organization (Unesco)*

Mr. H. Saba, Assistant Director-General for International Standards and Legal Affairs, representing the Director-General

Miss Marie-Claude Dock, Head, Copyright Division

Mr. Gust A. Ledakis, Jurist, Division of Legal Affairs

Mr. Y. Matveev, Legal Assistant, Copyright Division

## WIPO/BIRPI Meetings

September 14 and 15, 1970 (Geneva) — BIRPI Headquarters Building Subcommittee (a Subcommittee of the Interunion Coordination Committee)  
(2nd Session)

**Object:** Plans for the extension of the Headquarters Building of BIRPI — **Invitations:** Argentina, Cameroon, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Switzerland, United States of America

**September 14 to 18, 1970 (Geneva) — Permanent Committee of the Berne Union (Extraordinary Session)**

**Object:** Consideration of various questions concerning copyright — **Invitations:** Belgium, Brazil, Denmark, France, Germany (Fed. Rep.), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom — **Observers:** All other member States of the Berne Union; Unesco; International non-governmental Organizations concerned

September 16 to 18, 1970 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — Plenary Committee (2<sup>nd</sup> Session)

September 21 to 29, 1970 (Geneva) — Administrative Bodies of WIPO and of the Paris, Berne, Nice and Lisbon Unions

**Object:** Constitution of the new organs on the basis of the entry into force of some of the Stockholm (1967) texts; elections; budget and program; other administrative questions — **Invitations:** Member States of WIPO and the Paris, Berne, Nice and Lisbon Unions — **Observers:** To be announced later

**October 5 to 9, 1970 (Madrid) — Joint ad hoc Committee on the International Classification of Patents — (4<sup>th</sup> Session)**

**Object:** Supervision and coordination of the activities of the Working Groups — **Invitations:** Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — **Observer:** International Patent Institute — **Note:** Meeting convened jointly with the Council of Europe.

October 12 to 14, 1970 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Design and Testing) (4<sup>th</sup> Session)

October 14 to 16, 1970 (Geneva) — ICIREPAT — Technical Committee VI (Systems Implementation) (4<sup>th</sup> Session)

**October 15 and 16, 1970 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems (ABCS) (13<sup>th</sup> Session)**

October 19 and 20, 1970 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning) (4<sup>th</sup> Session)

October 21 to 23, 1970 (Geneva) — ICIREPAT — Technical Committee III (Advanced Computer Techniques) (3rd Session)

October 26 to 28, 1970 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing) (4<sup>th</sup> Session)

**October 29 and 30, 1970 (Geneva) — ICIREPAT — Technical Committee IV (Microform) (4<sup>th</sup> Session)**

November 23 to 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (3rd Session)

**Object:** Supervision of the uniform application of the Classification — **Invitations:** Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — **Note:** Meeting convened jointly with the Council of Europe

November 30 to December 4, 1970 (Geneva) — Provisional Committee of Experts for the International Classification of Industrial Designs

*Invitations: Signatory States of the Locarno Agreement — Observers: Member States of the Paris Union*

**December 7 and 8, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (5<sup>th</sup> Session)**

December 14 to 18, 1970 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Temporary Working Group VI

**Object:** Harmonization of French and English texts — **Note:** Meeting convened jointly with the Council of Europe

February 22 to 26, 1971 (Geneva) — Committee of Experts for an Agreement on the Protection of Type Faces

**March 15 to 24, 1971 (Strasbourg) — Diplomatic Conference for the Adoption of the Agreement Concerning the International Patent Classification**

**Note:** Conference convened jointly with the Council of Europe

## Meetings of Other International Organizations Concerned with Intellectual Property

**September 2 to 11, 1970 (Paris) — United Nations Educational, Scientific and Cultural Organization (Unesco) — Intergovernmental Copyright Committee — Extraordinary Session**

**September 21 to 25, 1970 (Amsterdam) — International Federation of Actors (IFA) — 8<sup>th</sup> Congress**

October 18 to 23, 1970 (Madrid) — International Association for the Protection of Industrial Property (IAPIP) — Executive Committee

December 15 to 17, 1970 (The Hague) — International Patent Institute (IIB) — 104<sup>th</sup> Session of the Administrative Council

**May 18 to 22, 1971 (Stockholm) — International Federation of Patent Agents (FICPI) — General Assembly**

**Luxembourg — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents:**

September 1 to 5, 1970 — Working Party II (2nd Meeting)

September 8 to 11, 1970 — Working Party I (5<sup>th</sup> Meeting)

September 15 to 18, 1970 — Working Party I — “Implementing Regulations” Subcommittee (2<sup>nd</sup> Meeting)

**October 6 to 8, 1970 — Working Party II (3<sup>rd</sup> Meeting)**

**October 13 to 15, 1970 — Working Party IV (3<sup>rd</sup> Meeting)**

October 20 to 23, 1970 — Working Party I — "Implementing Regulations" Subcommittee (3rd Meeting)

**November 24 to 27, 1970 — Working Party 1 — “Implementing Regulations” Subcommittee (4<sup>th</sup> Meeting)**

December 1 to 4, 1970 — Working Party I (6th Meeting)