

# Copyright

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# INTERNATIONAL UNION

## Hispano-American Legal Seminar (Copyright)

(Madrid, May 30 to June 5, 1966)

Under the auspices and with the co-operation of BIRPI, a Hispano-American Legal Seminar on copyright, organized by the Hispano-American Legal Studies Centre of the Hispanic Cultural Institute, was held at Madrid from May 30 to June 5, 1966, at the Institute's headquarters.

Meetings of this type organized by the Centre are of a strictly scientific character and the experts invited to participate are selected by reason of their legal speciality and their personal ability. Generally speaking, the objectives are the following: to promote and encourage joint work by Hispano-American lawyers in the various branches of law; to study practical problems of a legal character in order to arrive at homogeneous views; to arrive at practical solutions to the problems examined and contribute effectively to the approximation of the various legal systems.

The 1966 seminar was devoted to copyright. Its principal objectives were to afford a better knowledge of Hispano-American legislation on copyright, to analyse the specific problems arising in each country in connexion with the organization of societies of authors, to study the administrative aspects of the protection of intellectual property rights, to analyse the legislative situation in the Spanish-speaking countries in relation to the principles and rights recognized and protected by the Berne Convention, and to determine the criteria that could afford a basis for solutions at national and international level.

Experts from the following Latin American countries were invited in their personal capacity to participate in the seminar:

### *Argentina*

Mr. Carlos Mouchet, lawyer, former professor at the National University, Buenos Aires.

### *Brazil*

Mr. Hermano Duval, lawyer, associated in the compilation of the "Encyclopaedic Summary of Brazilian Law", Rio de Janeiro.

### *Colombia*

Mr. Arcadio Plazas, professor at the Javeriana University, Bogotá.

### *Ecuador*

Mr. Enrique Avellan Ferres, lawyer of the "Cuerpo de la República del Ecuador", Quito.

### *Mexico*

Mr. Ernesto Rojas y Benavides, lawyer, Mexico City.

### *Peru*

Mr. Rafael Morales, legal counsel to the Peruvian Authors' and Composers' Society (APDAYC), Lima.

In addition, a number of well-known Spanish personalities took part in the discussions:

Mr. Pio Cabinillas, Under-Secretary of State for Information and Tourism, Madrid.

Mr. Eleuterio Gonzales Zapatero, Director-General of Archives and Libraries, Madrid.

Mr. José Raya Mario, Secretary-General of Archives and Libraries, Madrid.

Mr. Jesus Alvarez Romero, Registrar of Intellectual Property, Madrid.

Mr. José-Antonio Garcia-Noblejas, notary and lawyer, Madrid.

Mr. Manuel Olivencia Ruiz, professor of commercial law at the University of Seville.

Mr. Jimenez de Quesada, lawyer, head of the legal department of the Spanish Authors' Society (SGAE), Madrid.

Mr. Jesus-Maria de Arozamena, administrator-delegate of the Spanish Authors' Society (SCAE), Madrid.

UNESCO and the International Confederation of Societies of Authors and Composers (CISAC), which were invited as observers, were represented respectively by Miss Marie-Claude Dock, Acting Head of the Copyright Section, and Mr. Léon Malaplate, Secretary-General.

The Hispanic Cultural Institute was represented by its Director, Mr. Gregorio Marañon, and by Mr. Fernando Murillo, Director of the Hispano-American Legal Studies Centre of the Institute. BIRPI were represented by Mr. Ch.-L. Magnin, Deputy Director, and Mr. Claude Masouyé, counsellor, Head of the Copyright Division. Secretariat services for the meeting were provided jointly by the Hispanic Cultural Institute and BIRPI.

At the opening meeting, Mr. Marañon stressed the importance of this Hispano-American legal seminar for the general development of copyright in the Hispano-American world and expressed his appreciation of the close co-operation that had been established for that purpose between the Hispanic Cultural Institute and BIRPI.

In a message addressed to the participants, Professor G. H. C. Bodenhausen, Director of BIRPI, recalled the keen desire of certain Latin American countries to be more closely associated with the international juridical system established by the Berne Convention; he hoped that the work commenced at Madrid would be the starting-point for a great endeavour to afford still more effective protection for literary and artistic property in those countries.

The discussions took place under the able and enlightened chairmanship of Mr. Murillo.

The agenda included the following topics:

I. The organization of administrative institutions for the protection and defence of copyright in each country.

I—1. Legal and administrative standards for copyright protection.

I—1.1. Works in the private domain: co-operation of administrative organs exercising police, inspection or control functions (police, municipal and other authorities) in order to forestall and prevent any unauthorized or abusive reproduction or use of intellectual works.

I—1.2. Works in the public domain: administrative protection of the integrity and fidelity of reproductions of works in the public domain.

- I—1.3. Administrative problems of the "domaine public payant".
- I—2. Some present-day aspects of copyright.
  - I—2.1. Dissemination of intellectual works by mechanical processes (phonograms, cinematography, photography, television).
  - I—2.2. Reproduction of artistic works.
- I—3. Organization and competence of national copyright registers.
- I—4. System of co-operation between registers in Hispano-American countries.
- II. Legal and institutional system with respect to copyright.
  - II—1. Functions and responsibilities of authors' societies: economic rights within their competence.
  - II—2. Recognition of authors' societies as public institutions (legal personality, national and international).
  - II—3. State intervention: its legal basis and its limitations.
- III. Systems of international copyright protection.
  - III—1. The system created by the Berne Convention of 1886; its development through the revisions at Berlin (1908), Rome (1928), and Brussels (1948). Present prospects.
  - III—2. The system created by the Universal Copyright Convention of 1952. The work of the Unesco Copyright Section. Present prospects.
  - III—3. International protection of performers, producers of phonograms and broadcasting organizations, under the Rome Convention of 1961. Present prospects.
  - III—4. International action by the CISAC for copyright protection. Present prospects.
  - III—5. Multilateral inter-American conventions on copyright.
- IV. Comparative study of the legislation of Hispano-American countries in relation to the Berne Convention for the protection of literary and artistic works.

Communications were presented by the experts on these various items. BIRPI, for their part, presented reports on items III—1, III—3 and IV. Beforehand, BIRPI had made available to participants some information documents relating in particular to the Berne Convention, the Rome Convention and recent Hispano-American legislation on copyright.

At the end of the discussions, the seminar adopted unanimously a number of conclusions and recommendations, the text of which is given below:

The Hispano-American Legal Seminar (Copyright), organized by the Hispanic Cultural Institute under the auspices and with the co-operation of BIRPI, took place from May 30 to June 5, 1966, at the Institute's headquarters. After having examined and discussed the items included in the agenda, and bearing in mind the scientific character of the meeting, the Seminar approved the following recommendations:

### I. Administrative protection

Considering:

1. that the development of technique is constantly making available to creative works of the human mind new media for disseminating them and, consequently, for raising the cultural level of mankind;
2. that constant use is made of the said works by corporate bodies or organizations which direct or own the technical installations permitting such widespread dissemination (for example, broadcasting or television stations, cinema producers, etc.);
3. that in order to meet programme requirements or certain tastes the users are frequently led to modify, mutilate or adapt intellectual creations without the consent of the author or his legal representatives,

Recommends:

1. that the legislation of the various countries should consider the desirability of giving the fullest possible attention to the adoption of administrative measures designed to forestall, prevent or ascertain the unauthorized or abusive reproduction and use of intellectual works;
2. that by reason of the great speed and economy which administrative action offers as compared with legal action, such administrative measures

should not only fulfil a protective function but should also have the character of a sanction, in the event of administrative infringements, and within the limits established by legislation in conformity with the system already in force for the protection of copyright;

3. that to this end consideration should be given to the desirability of BIRPI, with the authority that they possess at international level in the field of copyright protection, suggesting to the States the adoption of measures intended to forestall, prevent or ascertain the existence of infringements against the rules of intellectual property.

### II. Neighbouring rights

Considering the ever-growing complexity attaching to creative manifestations of the human mind and to the participation of various individuals in artistic achievements (in particular in the field of dramatic and musical creations),

Recommends:

1. that from the scientific aspect, more detailed examination should be made, as and where necessary, of the nature of rights said to be neighbouring or related to copyright, in order to clarify their true character in relation to intellectual property or copyright, with a view to determining what constitutes the real scope of copyright, and that any future studies on this matter should be of the utmost possible precision;
2. that for this purpose it would be appropriate, in the present situation, for the CISAC to draw up a report to illustrate, from the point of view of the authors, the possible implications of the Rome Convention in regard to copyright;
3. that the countries having acceded to the Rome Convention, or which are preparing to accede to it, should consider, in the light of their own national situation, the international commitments that they are required to enter into and the various mechanisms offered by the Rome Convention.

### III. "Domaine public payant"

Considering:

1. that in the legislation of various Hispano-American countries there exists the institute called the "domaine public payant" which not only functions to meet what may be deemed the requirements of copyright protection, but also constitutes a powerful factor for the development of the arts and literature by means of the revenue obtained from the exploitation of works that have fallen into the public domain, including the possibility of being an instrument for protecting the social security of writers and artists;
2. that a legal examination of this institution does not lead to conclusions of a negative character in regard to its application in the legislation that recognises it;

Recommends:

1. that the legislation which establishes the "domaine public payant" should provide for the institution of guarantees and limitations, so that such domain may always be conducive to the development of culture and to the well-being of the authors themselves, without having the character of a tax or a general levy;
2. that in any case the levy of such paying public domain should be the responsibility of authors' societies in countries where such societies function in a regular and organized manner and where the unification of activities, in the event that several societies exist, is sufficiently effective.

### IV. Unification of legislation

Considering:

1. that it is necessary, both for the universality of copyright protection and for exchanges among peoples, to attain a better degree of unification and approximation of legislation as between all countries in the world;
2. that such unification or approximation of legislation would constitute one of the most effective guarantees for obtaining the accession of the Hispano-American countries to the international instruments, for

example the Berne Convention, that are designed to afford the best means of protecting copyright,

Recommends:

1. that the Hispano-American countries should adopt a minimum duration of fifty years for protection after death;

2. that with respect to formalities the jurists should arrive at an approximation as between the rules established in the various legislations, or in the treaties that are in force or that might be concluded with respect to intellectual property, and the system established by the Berne Convention.

#### V. The Hispano-American countries and the Berne Convention

The Hispano-American Legal Seminar (Copyright), after having examined the prospects at present afforded by the Berne Convention for the protection of literary and artistic works together with the report presented on this subject by BIRPI,

Considering:

1. that reforms designed to facilitate the exercise of authors' rights, considered as being natural and human rights, can have a decisive influence on the future development of copyright throughout the world;

2. that by reason of its universality it is incumbent upon the Berne Convention to influence the law of member countries as well as that of countries which have not yet subscribed to this international agreement,

Recommends:

1. that the Hispano-American countries that are outside the system of the Berne Convention should give consideration to their immediate accession to this system, so as to exert influence on any future decisions of the Berne Union in reference to protection of the achievements of copyright as being the lofty expression of respect for the creative spirit of man;

2. that the efforts of BIRPI to extend the field of application of the Berne Convention in the Hispano-American countries should be supported, in order in this way to arrive at better and more extensive

protection of the rights of authors of literary and artistic works throughout the world.

\* \* \*

In addition to the foregoing recommendations, the participants at the seminar approved the following conclusion by acclamation, on a proposal by the Mexican expert, Dr. Ernesto Rojas y Benavides:

The 2<sup>nd</sup> Hispano-American Legal Seminar, conscious of the ever-growing importance of the theoretical consideration of copyright problems with a view to the effective recognition of copyright,

Congratulates the Hispanic Cultural Institute and its Hispano-American Legal Studies Centre on their appropriate and significant initiative in organizing the present seminar,

Likewise congratulates BIRPI for having sponsored and co-operated in the work;

Expresses its gratitude to H. E. Mr. Gregorio Manañon, Director of the Hispanic Cultural Institute, for all the consideration and attention he has shown towards the participants,

Expresses its most sincere and enthusiastic appreciation to Mr. Fernando Murillo for the constant efforts and attention and also the remarkable efficiency with which he has presided over this meeting, and

Expresses the hope that similar meetings may contribute to better understanding and better co-operation between Hispano-American jurists for the development of their common cultural and legal heritages.

\* \* \*

In due course, the Hispanic Cultural Institute is to publish, in co-operation with BIRPI, a booklet reproducing the texts of the working documents, reports, deliberations and conclusions of this Hispano-American legal seminar on copyright.

## STATE OF THE INTERNATIONAL UNION ON JULY 1, 1966

Country <sup>1)</sup>	Class chosen [Art. 23 (4)]	Date of Accession (Art. 25)	Date on which the Convention was declared applicable (Art. 26) <sup>2)</sup>	Date of Accession to the Rome Text	Date of Accession to the Brussels Text
1. Australia <sup>3)</sup> Nauru, New Guinea, Papua and Northern Territory	III —	14-IV-1928 —	5-XII-1887 29-VII-1936	18-I-1935 29-VII-1936	— —
2. Austria	VI	1-X-1920	—	1-VII-1936	14-X-1953
3. Belgium	III	5-XII-1887	—	7-X-1934	1-VIII-1951
4. Brazil	III	9-II-1922	—	1-VI-1933	9-VI-1952
5. Bulgaria	V	5-XII-1921	—	1-VIII-1931	—
6. Cameroon	VI	24-IX-1964 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
7. Canada <sup>4)</sup>	II	10-IV-1928	5-XII-1887	1-VIII-1931	—
8. Ceylon	VI	20-VII-1959 <sup>a)</sup>	1-X-1931 <sup>c)</sup>	1-X-1931 <sup>c)</sup>	—
9. Congo (Brazzaville)	VI	8-V-1962 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
10. Congo (Leopoldville)	VI	8-X-1963 <sup>a)</sup>	20-XII-1948 <sup>c)</sup>	20-XII-1948 <sup>c)</sup>	14-II-1952 <sup>c)</sup>
11. Cyprus	VI	24-II-1964 <sup>a)</sup>	1-X-1931 <sup>c)</sup>	1-X-1931 <sup>c)</sup>	24-II-1964
12. Czechoslovakia	IV	22-II-1921	—	30-XI-1936	—
13. Dahomey	VI	3-I-1961 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
14. Denmark	IV	1-VII-1903	—	16-IX-1933	19-II-1962
15. Finland	IV	1-IV-1928	—	1-VIII-1931	28-I-1963
16. France Overseas Departments and Territories	I —	5-XII-1887 —	— 26-V-1930	22-XII-1933 <sup>5)</sup> 22-XII-1933	1-VIII-1951 22-V-1952
17. Gabon	VI	26-III-1962 <sup>b)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	26-III-1962 <sup>b)</sup>
18. Germany	I	5-XII-1887	—	21-X-1933	—
19. Greece	VI	9-XI-1920	—	25-II-1932 <sup>6)</sup>	6-I-1957
20. Holy See (Vatican City)	VI	12-IX-1935	—	12-IX-1935	1-VIII-1951
21. Hungary	VI	14-II-1922	—	1-VIII-1931	—
22. Iceland	VI	7-IX-1947	—	7-IX-1947 <sup>7)</sup>	—
23. India <sup>8)</sup>	IV	1-IV-1928	5-XII-1887	1-VIII-1931	21-X-1958
24. Ireland <sup>9)</sup>	IV	5-X-1927	5-XII-1887	11-VI-1935 <sup>7)</sup>	5-VII-1959
25. Israel <sup>10)</sup>	V	24-III-1950	21-III-1924	24-III-1950	1-VIII-1951
26. Italy	I	5-XII-1887	—	1-VIII-1931	12-VII-1953
27. Ivory Coast	VI	1-I-1962 <sup>b)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	1-I-1962 <sup>b)</sup>

1) Among the newly independent countries to which the Berne Convention was applied, by virtue of Article 26, there are only mentioned those which have so far made a declaration of continued adherence or a formal notification of accession to the Swiss Government under Article 25 of the Convention. This list will be amended as and when declarations of continued adherence or notifications of accession are received by the Swiss Government from other countries.

2) I. e. the date from which the notification made by virtue of Article 26 (1) began to take effect for the application of the Convention on the territory of the country concerned. After the latter's accession to independence, the application was confirmed by a declaration of continued adherence or accession.

3) Australia belonged to the Union from the outset as a country for the international relations of which the United Kingdom was responsible. April 14, 1928, is the date on which Australia made a declaration of accession, as a contracting country of the Union, in conformity with Article 25.

4) Same observation as in note 3), for Canada, which acceded with effect from April 10, 1928.

5) Reservation concerning works of applied art: Article 2 (4) of the Rome Text had been replaced by Article 4 of the original Convention of 1886.

6) Articles 8 and 11 of the Rome Text had been replaced by Articles 5 and 9 of the original Convention of 1886; but, as from January 6, 1957, Greece renounced these reservations in favour of all countries of the Union.

7) Reservation concerning the right of translation: Article 8 of the Rome Text has been replaced by Article 5 of the original Convention of 1886, in the version of the Additional Act of 1896.

8) Same observation as in note 3), for India, which acceded with effect from April 1, 1928.

9) The new free State of Ireland, which was constituted by the Treaty signed with Great Britain on December 6, 1921, acceded, as such, with effect from October 5, 1927.

## STATE OF THE INTERNATIONAL UNION ON JULY 1, 1966

Country <sup>1)</sup>	Class chosen [Art. 23 (4)]	Date of Accession (Art. 25)	Date on which the Convention was declared applicable (Art. 26) <sup>2)</sup>	Date of Accession to the Rome Text	Date of Accession to the Brussels Text
28. Japan	III	15-VII-1899	—	1-VIII-1931 <sup>7)</sup>	—
29. Lebanon	VI	1-VIII-1924	—	24-XII-1933	—
30. Liechtenstein	VI	30-VII-1931	—	30-VIII-1931	1-VIII-1951
31. Luxembourg	VI	20-VI-1888	—	4-II-1932	1-VIII-1951
32. Madagascar	VI	1-I-1966 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
33. Mali	VI	8-V-1962 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
34. Monaco	VI	30-V-1889	—	9-VI-1933	1-VIII-1951
35. Morocco	VI	16-VI-1917	—	25-XI-1934	22-V-1952
36. Netherlands Surinam and Netherlands Antilles	III —	1-XI-1912 —	— 1-IV-1913	1-VIII-1931 1-VIII-1931	— —
37. New Zealand <sup>11)</sup>	IV	24-IV-1928	5-XII-1887	4-XII-1947	—
38. Niger	VI	2-V-1962 <sup>a)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	22-V-1952 <sup>c)</sup>
39. Norway	IV	13-IV-1896	—	1-VIII-1931	28-I-1963
40. Pakistan <sup>12)</sup>	VI	5-VII-1948	5-XII-1887	5-VII-1948	—
41. Philippines	VI	1-VIII-1951	—	—	1-VIII-1951
42. Poland	V	28-I-1920	—	21-XI-1935	—
43. Portugal <sup>13)</sup>	III	29-III-1911	—	29-VII-1937	1-VIII-1951
44. Rumania	V	1-I-1927	—	6-VIII-1936	—
45. Senegal	VI	25-VIII-1962 <sup>b)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	25-VIII-1962 <sup>b)</sup>
46. South Africa <sup>14)</sup> South West Africa <sup>15)</sup>	IV —	3-X-1928 28-X-1931	5-XII-1887 5-XII-1887	27-V-1935 —	1-VIII-1951 —
47. Spain	II	5-XII-1887	—	23-IV-1933	1-VIII-1951
48. Sweden	III	1-VIII-1904	—	1-VIII-1931	1-VII-1961
49. Switzerland	III	5-XII-1887	—	1-VIII-1931	2-I-1956
50. Thailand	VI	17-VII-1931	—	—	—
51. Tunisia	VI	5-XII-1887	—	22-XII-1933 <sup>5)</sup>	22-V-1952
52. Turkey	VI	1-I-1952	—	—	1-I-1952 <sup>7)</sup>
53. United Kingdom <sup>16)</sup> Colonies, Possessions and certain Protectorate Territories	I —	5-XII-1887 —	— various dates	1-VIII-1931 various dates	15-XII-1957 various dates <sup>17)</sup>
54. Upper Volta	VI	19-VIII-1963 <sup>b)</sup>	26-V-1930 <sup>c)</sup>	22-XII-1933 <sup>c)</sup>	19-VIII-1963 <sup>b)</sup>
55. Yugoslavia	IV	17-VI-1930	—	1-VIII-1931 <sup>7)</sup>	1-VIII-1951 <sup>7)</sup>

<sup>10)</sup> The accession of *Palestine*, as a territory under British mandate, took effect from March 21, 1924. After its accession to independence (May 15, 1948), *Israel* acceded with effect from March 24, 1950.

<sup>11)</sup> Same observation as in note <sup>3)</sup>, for *New Zealand*, which acceded with effect from April 24, 1928.

<sup>12)</sup> When *Pakistan* formed part of India, it belonged *ipso facto* to the Union as from the outset [see note <sup>8)</sup>]; subsequently, *Pakistan* became a separate State from India and, on July 5, 1948, made a declaration of accession to the Berne Convention as revised at Rome in 1928.

<sup>13)</sup> The former colonies have become "Portuguese Overseas Provinces". The Brussels Text has been applicable to these provinces since August 3, 1956.

<sup>14)</sup> Same observation as in note <sup>3)</sup>, for the *Union of South Africa*, which acceded with effect from October 3, 1928.

<sup>15)</sup> The *Union of South Africa* later made a declaration of accession for *South West Africa*, a territory under mandate, and fixed the date of accession at October 28, 1931.

<sup>16)</sup> United Kingdom of Great Britain and Northern Ireland.

<sup>17)</sup> Application of the Convention to the Isle of Man, Fiji, Gibraltar and Sarawak (see *Le Droit d'Auteur-Copyright*, 1962, p. 32); to Zanzibar, Bermudas and North Borneo (*ibid.*, 1963, p. 8); to Bahamas and Virgin Islands (*ibid.*, 1963, p. 144); to Falkland Islands, Kenya, St. Helena and Seychelles (*ibid.*, 1963, p. 180); to Mauritius (*ibid.*, 1964, p. 192); to Montserrat, Santa-Lucia and Bechuanaland (*Copyright*, 1966, p. 67); to Grenada, the Cayman Islands and British Guiana (*ibid.*, 1966, p. 91). The Republic of the Philippines, however, reserved its position as regards the application to Sarawak.

<sup>a)</sup> Date of the despatch of the declaration of continued adherence after the accession of this country to independence.

<sup>b)</sup> Date of the entry into force of the accession, by virtue of Article 25 (3) of the Convention.

<sup>c)</sup> As a colony (date of the application resulting from the notice made by the colonising power or the power exercising trusteeship or being responsible for the international relations of a country, by virtue of Article 26 (1) of the Convention).

# NATIONAL LEGISLATION

REPUBLIC OF SOUTH AFRICA

## Proclamation relating to the Extension of Copyright Protection to Countries which are Members of the Berne Copyright Union

(No. R. 73, of March 2, 1966)<sup>1)</sup>

Under the power vested in me by section *thirty-two* of the Copyright Act, 1965 (Act No. 63 of 1965)<sup>2)</sup>, I hereby provide as follows:—

1. — This Proclamation may be cited as the Copyright International Conventions Proclamation, 1966.

2. — In this Proclamation, unless the context otherwise indicates —

- (1) “the Act” means the Copyright Act, 1965 (Act No. 63 of 1965); and any expression to which a meaning has been assigned in the Act, bears, when used in this proclamation the same meaning;
- (2) “country of origin” means —
  - (i) in the case of a published work or subject matter, if the country of first publication is a country mentioned in the First Schedule hereto, that country;
  - (ii) in the case of a work or subject matter published simultaneously in a country of the Berne Copyright Union and a country which is not in the said Union, the former country;
  - (iii) in the case of a work or subject matter which is published simultaneously in several countries of the Berne Copyright Union, the country whose laws give the shortest term of protection for such a work or subject matter;
- (3) “Berne Copyright Union” means the Union constituted by the Berne Convention for the Protection of Literary and Artistic Works signed on the 9<sup>th</sup> September, 1886, and completed at Paris on the 4<sup>th</sup> May, 1896, revised by the Berlin Convention signed on the 13<sup>th</sup> November, 1908, and completed at Berne on the 20<sup>th</sup> March, 1914, revised by the Rome Convention concluded on the 2nd June, 1928, and revised by the Brussels Convention signed on the 26<sup>th</sup> June, 1948, and “country of the Berne Copyright Union” means any country which has adhered to any one or more of the said Conventions and is mentioned in the First Schedule hereto;
- (4) “material time” means —
  - (i) in relation to an unpublished work or subject matter, the time at which such work or subject matter is made or, if the making thereof extended over a period, a substantial part of that period;

(ii) in relation to a published work or subject matter, the time of first publication;

(5) “published simultaneously” means —

- (i) in the case of publications occurring before the commencement of this Proclamation, published within a period of 14 days;
- (ii) in any other case, published within a period of 30 days.

3. — Subject to the following provisions of this Proclamation, the provisions of Chapters I and II (except section *fifteen*) of the Act and all the other provisions of the Act relevant thereto, being the provisions relating to literary, dramatic, musical and artistic works, sound recordings, cinematograph films and published editions of literary, dramatic or musical works, shall apply in the case of each of the countries mentioned in the First Schedule hereto as follows:—

- (a) in relation to literary, dramatic, musical or artistic works, cinematograph films or published editions first published and sound recordings first made in that country just as they apply in relation to such works, films or editions first published and sound recordings first made in the Republic;
- (b) in relation to persons who, at a material time, are citizens or subjects of, or domiciled or resident in that country, just as they apply in relation to persons who, at such a time, are nationals of the Republic or domiciled or resident in the Republic;
- (c) in relation to bodies incorporated under the laws of that country, just as they apply in relation to bodies incorporated under the laws of the Republic: Provided that —
  - (i) in the case of any country, the acts restricted by copyright in a sound recording conferred by section *thirteen* of the Act, as applied by this Proclamation, shall not include causing the recording to be heard in public nor broadcasting the recording;
  - (ii) where copyright subsists by virtue of this Proclamation in any sound recording, it shall subsist only to the extent that protection in the nature of or related to copyright is granted under the laws of its country of origin in respect of a sound recording first made in the Republic of South Africa, and no such sound recording shall enjoy any wider protection by virtue of this Proclamation than is enjoyed

<sup>1)</sup> Published in the *Government Gazette Extraordinary of the Republic of South Africa*, Vol. 19, No. 1402, of March 18, 1966.

<sup>2)</sup> See *Copyright*, 1966, p. 26 *et seq.*

in its country of origin by a sound recording first made in the said Republic;

- (iii) where copyright subsists by virtue of this Proclamation in any published edition being a typographical arrangement of literary, dramatic, or musical works, it shall subsist only to the extent that protection in the nature of or related to copyright is granted under the laws of their country of origin in respect of South African editions and no such edition shall enjoy any wider protection by virtue of this Proclamation than is enjoyed in its country of origin by a South African edition;
- (iv) in relation to any work or other subject matter made before the commencement of this Proclamation, the provisions of the Act shall apply by virtue of this Proclamation, subject to the modifications specified in the Second Schedule hereto;
- (v) nothing in the provisions of the Act as applied by this Proclamation shall be construed as reviving any right to make, or restrain the making of, or any right in respect of, translations, if such right has ceased before the commencement of this Proclamation.

4. — Where any person has, before the commencement of this Proclamation, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work or other subject matter in a manner which at the time was lawful, or for the purposes of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the making of this Proclamation, have been lawful, nothing in this Proclamation shall diminish or prejudice any rights or interest which arise from, or in connection with, such action, and which subsist and were valuable immediately before such commencement, unless the person who, by virtue of this Proclamation becomes entitled to restrain such reproduction or performance agrees to pay such compensation as failing agreement, may be determined by arbitration.

5. — The Proclamations enumerated in the Third Schedule hereto are hereby repealed; provided that where by virtue of any of the aforesaid Proclamations, copyright subsisted in a work immediately before the commencement of this Proclamation and copyright does not subsist therein under paragraph 3 of this Proclamation, it shall continue to subsist therein as if such Proclamation had not been repealed.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this Second day of March, One thousand Nine hundred and Sixty-six.

C. R. SWART, State President

By Order of the State President-in-Council

P. M. K. LE ROUX

## FIRST SCHEDULE

### Countries of the Berne Copyright Union

Under a Convention concluded at Berlin on the 13<sup>th</sup> November, 1908 ("The Berlin Convention"), replacing between the parties thereto a Convention concluded at Berne on the 9<sup>th</sup> September, 1886 ("The Berne Convention"), as amended by an Additional Act ("the Additional Act") agreed to on the 4<sup>th</sup> May, 1896, and at Rome on the 2<sup>nd</sup> June, 1928, and at Brussels on the 26<sup>th</sup> June, 1948—

Australia (Nauru, New Guinea, Papua and northern Territory)	Lebanon
Austria	Liechtenstein
Belgium	Luxembourg
Brazil	Mali
Bulgaria	Monaco
Cameroon	Morocco
Canada	Netherlands (Surinam and (Netherlands Antilles)
Ceylon	New Zealand
Congo (Brazzaville)	Niger
Congo (Leopoldville)	Norway
Cyprus	Pakistan
Czechoslovakia	Philippines
Dahomey	Poland
Denmark	Portugal
Finland	Roumania
France (overseas Departments and Territories)	Senegal
Gabon	South West Africa
Germany	Spain
Greece	Sweden
Holy See (Vatican City)	Switzerland
Hungary	Thailand
Iceland	Tunisia
India	Turkey
Ireland	United Kingdom (Colonies, Possessions and Protectorate Territories)
Israel	
Italy	Upper Volta
Ivory Coast	Yugoslavia
Japan	

## SECOND SCHEDULE

1. In the case of any work to which the provisions of the Designs and Copyright Act, 1916, applied immediately before the commencement of this Proclamation, subsection (9) of section *nine* of the Act shall have effect as if, for the references therein to the first day of January, 1917, there were substituted references to the date specified in column 2 of the table set out at the end of this Schedule in relation to the country of origin of that work (being the date on which the Designs and Copyright Act, 1916, first applied in relation to that country), and, in the case of any other work, the said sub-section (9) of section *nine* shall have effect as if, for the references to that date, there were substituted references to the commencement of this Proclamation.

2. Where any musical work, in which, immediately before the commencement of this Proclamation, copyright subsisted by virtue of any Proclamation made under sub-section (2) of section *thirty* of the Third Schedule to the Designs and Copyright Act, 1916, was published before the date specified in column 2 of the aforementioned table in re-

lation to the country of origin of that work (being the date on which that Act first applied in relation to that country), the acts restricted by the copyright in that work shall not include making, or authorising the making of, a sound recording thereof, if before that date any record of that work had been lawfully made or placed on sale within the Republic.

3. Where any musical work, in which copyright did not subsist as mentioned in the preceding paragraph, has been published before the commencement of this Proclamation, the preceding paragraph shall have effect as if, for the references to the date therein mentioned, there were substituted a reference to the commencement of this Proclamation.

4. In the case of a sound recording embodied in any record to which the provisions of the Designs and Copyright Act, 1916, applied immediately before the commencement of this Proclamation, the provisions of paragraphs 6 and 13 of the Sixth Schedule to the Act shall apply in relation to the copyright in that sound recording as if, for the reference therein to the first day of January, 1917, there were substituted a reference to the date specified in column 2 of the table below in relation to the country of origin of that work (being the date on which paragraph 19 of the Third Schedule to the Copyright Act of 1916, first applied in relation to that country), and, in the case of any other sound recording, the said paragraphs 6 and 13 shall have effect as if, for the reference to that date, there were substituted a reference to the commencement of this Proclamation.

5. In relation to any work or other subject matter in which copyright subsists by virtue of this Proclamation, the relevant provisions of the Sixth Schedule to the Act shall have effect as if, for the references, whenever they occur therein, to the commencement of the Act or of any provisions of the Act or to the repeal of any provision of the Designs and Copyright Act, 1916, or of any other enactment, there were substituted references to the commencement of this Proclamation.

Country of Origin (Column 1)	Date of Application of Relevant Provisions, of Designs and Copyright Act, 1916 (Column 2.)
Australia . . . . .	1st January, 1917
Canada . . . . .	1st January, 1917
Great Britain . . . . .	1st January, 1917
India . . . . .	1st January, 1917
New Zealand . . . . .	1st January, 1917
Pakistan . . . . .	1st January, 1917
Belgium . . . . .	1st May, 1920
Denmark and Faroe Islands . . . . .	1st May, 1920
France . . . . .	1st May, 1920
Germany—Federal Republic of and Land Berlin . . . . .	1st May, 1920
Italy . . . . .	1st May, 1920
Japan . . . . .	1st May, 1920
Luxemburg . . . . .	1st May, 1920
Monaco . . . . .	1st May, 1920
Morocco (former French zone) . . . . .	1st May, 1920
Netherlands including Surinam and Netherlands Antilles . . . . .	1st May, 1920
Norway . . . . .	1st May, 1920
Portugal . . . . .	1st May, 1920
Spain . . . . .	1st May, 1920
Sweden . . . . .	1st May, 1920
Switzerland . . . . .	1st May, 1920
Tunisia . . . . .	1st May, 1920
Brazil . . . . .	6th July, 1923
Austria . . . . .	6th July, 1923
Bulgaria . . . . .	6th July, 1923
Czechoslovakia . . . . .	6th July, 1923
Greece . . . . .	6th July, 1923
Hungary . . . . .	6th July, 1923
Poland . . . . .	6th July, 1923
Finland . . . . .	13th April, 1934
French Colonies and Protectorates under the authority of the French Ministry of Colonies . . . . .	13th April, 1934
Lebanon . . . . .	13th April, 1934
Liechtenstein . . . . .	13th April, 1934
Portuguese Colonies . . . . .	13th April, 1934
Roumauia . . . . .	13th April, 1934
South West Africa . . . . .	13th April, 1934
Spanish Colonies . . . . .	13th April, 1934
Syria . . . . .	13th April, 1934
Thailand (Siam) . . . . .	13th April, 1934
Yugoslavia . . . . .	13th April, 1934
Morocco (former Spanish zone) . . . . .	31st January, 1936
Vatican City . . . . .	31st January, 1936

### THIRD SCHEDULE

#### Proclamations repealed

1. Proclamation No. 73 of 3<sup>rd</sup> May, 1920.
2. Proclamation No. 138 of 6<sup>th</sup> July, 1923.
3. Proclamation No. 185 of 4<sup>th</sup> August, 1930.
4. Proclamation No. 39 of 13<sup>th</sup> February, 1933.
5. Proclamation No. 58 of 13<sup>th</sup> April, 1934.
6. Proclamation No. 32 of 31<sup>st</sup> January, 1936, as amended by Proclamation No. 147 of 11<sup>th</sup> August, 1943.
7. Proclamation No. 83 of 5<sup>th</sup> May, 1939.
8. Proclamation No. 152 of 16<sup>th</sup> July, 1940.
9. Proclamation No. 153 of 16<sup>th</sup> July, 1940.

## UNITED KINGDOM

## I

**The Copyright (British Honduras) Order 1966**

(No. 685, of June 9, 1966, coming into force on June 16, 1966)

This Order extends the provisions of the Copyright Act 1956 with certain exceptions and modifications to form part of the law of British Honduras.

The Order also extends three Orders in Council made under Part V of that Act. The extension of these Orders will afford protection in British Honduras to works originating in countries party to International Copyright Conventions, to

works produced by certain international organisations and to lawfully authorised broadcasts originating in other Commonwealth countries to which the 1956 Act has already been extended.

The copyright protection afforded in the law of British Honduras will be similar to that afforded in the law of the United Kingdom.

## II

**The Copyright (International Conventions) (Amendment) Order 1966**

(No. 684, of June 9, 1966, coming into force on June 16, 1966)

Her Majesty, in exercise of the powers conferred upon Her by sections 31, 32 and 47 of the Copyright Act 1956 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. — The Copyright (International Conventions) Order 1964<sup>1)</sup> (hereinafter referred to as “the principal Order”), as amended<sup>2)</sup>, shall be further amended —

- (i) by adding a reference to the Malagasy Republic in Part 1 of Schedule 1 (which names the countries of the Berne Copyright Union); and
- (ii) by adding a reference to Yugoslavia in Part 2 of Schedule 1 (which names the countries party to the Universal Copyright Convention).

2. — The provisions of this Order shall extend to all the countries mentioned in column 1 Part 1 of Schedule 4 to the principal Order, Bechuanaland, the Cayman Islands, Gre-

nada, Montserrat and St. Lucia (being the countries to which that Order has been extended).

3. — (1) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) This Order may be cited as the Copyright (International Conventions) (Amendment) Order 1966 and shall come into operation on 16<sup>th</sup> June 1966.

## EXPLANATORY NOTE

(This Note is not part of the Order)

This Order further amends the Copyright (International Conventions) Order 1964.

It takes account of —

- (a) the fact that the Malagasy Republic has adhered to the Berne Copyright Convention in its own right (it was formerly a party as a French Protectorate);
- (b) the ratification by Yugoslavia of the Universal Copyright Convention.

Article 2 of the Order extends its provisions to the dependent countries of the Commonwealth where the Copyright Act 1956 is law.

<sup>1)</sup> See *Le Droit d'Auteur (Copyright)*, 1964, p. 150.

<sup>2)</sup> *Ibid.*, 1964, p. 184; *Copyright*, 1965, p. 40, 240 and 241; *ibid.*, 1966, p. 93.

*CORRESPONDENCE*

**Letter from Austria\*)**

















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Dr. Robert DITTRICH  
Deputy Director  
Ministry of Justice, Vienna

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### Corrigendum

In the May issue, on page 134, the 17<sup>th</sup> line of the 2<sup>nd</sup> column should be cancelled and replaced by the following line:

“and 18, 1964, the defendant undertook to act in accord.”

# NEWS ITEMS

## State of Ratifications and Accessions to the Conventions and Agreements affecting Copyright on July 1, 1966

### 1. International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, October 26, 1961)

Contracting States	Deposit of Instrument	Coming into Force	Ratification (R) or Accession (A)
Brazil	June 29, 1965	September 29, 1965	R
Congo (Brazzaville) <sup>1)</sup>	June 29, 1962	May 18, 1964	A
Czechoslovakia <sup>1)</sup>	May 13, 1964	August 14, 1964	A
Denmark <sup>1)</sup>	June 23, 1965	September 23, 1965	R
Ecuador	December 19, 1963	May 18, 1964	R
Mexico	February 17, 1964	May 18, 1964	R
Niger <sup>1)</sup>	April 5, 1963	May 18, 1964	A
Sweden <sup>1)</sup>	July 13, 1962	May 18, 1964	R
United Kingdom <sup>1)</sup>	October 30, 1963	May 18, 1964	R

<sup>1)</sup> The instruments of ratification or accession deposited with the Secretary-General of the United Nations were accompanied by "declarations". As to Congo (Brazzaville), see *Le Droit d'Auteur (Copyright)*, 1964, p. 127; as to Czechoslovakia, see *ibid.*, 1964, p. 110; as to Denmark, see *Copyright*, 1965, p. 214; as to Niger, see *Le Droit d'Auteur (Copyright)*, 1963, p. 155; as to Sweden, see *ibid.*, 1962, p. 138; as to United Kingdom, see *ibid.*, 1963, p. 244.

### 2. Universal Copyright Convention (Geneva, September 6, 1952)

Contracting States	Deposit of Instrument	Coming into Force	Ratification (R) or Accession (A)	Protocols adopted
Andorra . . . .	30 XII 1952 <sup>1)</sup> 22 I 1953 <sup>2)</sup>	16 IX 1955	R	2, 3 1, 2, 3
Argentina . . . .	13 XI 1957	13 II 1958	R	1, 2
Austria . . . .	2 IV 1957	2 VII 1957	R	1, 2, 3
Belgium <sup>3)</sup> . . . .	31 V 1960	31 VIII 1960	R	1, 2, 3
Brazil . . . . .	13 X 1959	13 I 1960	R	1, 2, 3
Cambodia . . . .	3 VIII 1953	16 IX 1955	A	1, 2, 3
Canada . . . . .	10 V 1962	10 VIII 1962	R	3
Chile . . . . .	18 I 1955	16 IX 1955	R	2
Costa Rica . . . .	7 XII 1954	16 IX 1955	A	1, 2, 3
Cuba . . . . .	18 III 1957	18 VI 1957	R	1, 2
Czechoslovakia . .	6 X 1959	6 I 1960	A	2, 3
Denmark . . . . .	9 XI 1961	9 II 1962	R	1, 2, 3
Ecuador . . . . .	5 III 1957	5 VI 1957	A	1, 2
Finland . . . . .	16 I 1963	16 IV 1963	R	1, 2, 3
France <sup>4)</sup> . . . .	14 X 1955	14 I 1956	R	1, 2, 3
Germany (Fed. Rep.) <sup>5)</sup> . .	3 VI 1955	16 IX 1955	R	1, 2, 3
Ghana . . . . .	22 V 1962	22 VIII 1962	A	1, 2, 3
Greece . . . . .	24 V 1963	24 VIII 1963	A	1, 2, 3
Guatemala . . . .	28 VII 1964	28 X 1964	R	1, 2, 3
Haiti . . . . .	1 IX 1954	16 IX 1955	R	1, 2, 3
Holy See . . . . .	5 VII 1955	5 X 1955	R	1, 2, 3
Iceland . . . . .	18 IX 1956	18 XII 1956	A	
India . . . . .	21 X 1957	21 I 1958	R	1, 2, 3
Ireland . . . . .	20 X 1958	20 I 1959	R	1, 2, 3

Contracting States	Deposit of Instrument	Coming into Force	Ratification (R) or Accession (A)	Protocols adopted
Israel . . . . .	6 IV 1955	16 IX 1955	R	1, 2, 3
Italy . . . . .	24 X 1956	24 I 1957	R	2, 3
Japan . . . . .	28 I 1956	28 IV 1956	R	1, 2, 3
Laos . . . . .	19 VIII 1954	16 IX 1955	A	1, 2, 3
Lebanon . . . . .	17 VII 1959	17 X 1959	A	1, 2, 3
Liberia . . . . .	27 IV 1956	27 VII 1956	R	1, 2
Liechtenstein . . .	22 X 1958	22 I 1959	A	1, 2
Luxembourg . . . .	15 VII 1955	15 X 1955	R	1, 2, 3
Malawi . . . . .	26 VII 1965	26 X 1965	A	
Mexico . . . . .	12 II 1957	12 V 1957	R	2
Monaco . . . . .	16 VI 1955	16 IX 1955	R	1, 2
New Zealand . . . .	11 VI 1964	11 IX 1964	A	1, 2, 3
Nicaragua . . . . .	16 V 1961	16 VIII 1961	R	1, 2, 3
Nigeria . . . . .	14 XI 1961	14 II 1962	A	
Norway . . . . .	23 X 1962	23 I 1963	R	1, 2, 3
Pakistan . . . . .	28 IV 1954	16 IX 1955	A	1, 2, 3
Panama . . . . .	17 VII 1962	17 X 1962	A	1, 2, 3
Paraguay . . . . .	11 XII 1961	11 III 1962	A	1, 2, 3
Peru . . . . .	16 VII 1963	16 X 1963	R	1, 2, 3
Philippines <sup>6)</sup> . . .	19 VIII 1955	19 XI 1955	A	1, 2, 3
Portugal . . . . .	25 IX 1956	25 XII 1956	R	1, 2, 3
Spain <sup>7)</sup> . . . . .	27 X 1954	16 IX 1955	R	1, 2, 3
Sweden . . . . .	1 IV 1961	1 VII 1961	R	1, 2, 3
Switzerland . . . .	30 XII 1955	30 III 1956	R	1, 2
United Kingdom <sup>8)</sup>	27 VI 1957	27 IX 1957	R	1, 2, 3
United States of America <sup>9)</sup> . . .	6 XII 1954	16 IX 1955	R	1, 2, 3
Yugoslavia . . . .	11 II 1966	11 V 1966	R	1, 2, 3
Zambia . . . . .	1 III 1965	1 VI 1965	A	

Total: 52 States

<sup>1)</sup> Date upon which an instrument of ratification of the Convention and of Protocols 2 and 3 was deposited on behalf of the Bishop of Urgel, co-Prince of Andorra.

<sup>2)</sup> Date upon which an instrument of ratification of the Convention and of Protocols 1, 2 and 3 was deposited on behalf of the President of the French Republic, co-Prince of Andorra.

<sup>3)</sup> The Director-General of Unesco received from the Belgian Government a notification of application of the Convention and Protocols 1, 2 and 3 to the Trust Territory of Ruanda-Urundi, effective from April 24, 1961.

<sup>4)</sup> On November 16, 1955, France notified the Director-General of Unesco that the Convention and the three Protocols apply, as from the date of their entry into force in respect of France, to Metropolitan France and to the Departments of Algeria, Gadeloupe, Martinique, Guiana and Réunion.

<sup>5)</sup> Following the deposit of the instrument of ratification, a statement was made on June 3, 1955, on behalf of the Federal Republic of Germany: "The Government of the Federal Republic of Germany reserves the right, after complying with the preliminary formalities, to make a statement regarding the implementation of the Universal Copyright Convention and the additional Protocols 1, 2 and 3 so far as the Land of Berlin is concerned". On September 12, 1955, the Director-General of Unesco received the following declaration made on behalf of the Federal Republic of Germany on September 8, 1955: "The Universal Copyright Convention and Protocols 1, 2 and 3 annexed shall likewise be applied in Land Berlin as soon as the Convention and the annexed Protocols come into force in respect of the Federal Republic of Germany".

6) On November 14, 1955, the following communication was addressed to the Director-General of Unesco on behalf of the Republic of the Philippines: "... His Excellency the President of the Republic of the Philippines has directed the withdrawal of the instrument of accession of the Republic of the Philippines to the Universal Copyright Convention prior to the date of November 19, 1955, at which the Convention would become effective in respect of the Philippines". This communication was received on November 16, 1955. By circular letter of January 11, 1956, the Director-General of Unesco transmitted it to the Contracting States of the Convention as well as to the Signatory States. Observations received from Governments were communicated to the Republic of the Philippines and to other States concerned by circular letter of April 16, 1957.

7) The instrument of ratification deposited on behalf of Spain on October 27, 1954, related to the Convention and the three Protocols. Since Protocols 1 and 3 had not been signed on behalf of Spain, the Director-General of Unesco, by letter of November 12, 1954, drew the attention of the Government of Spain to this fact. In reply, the following communication was addressed to the Director-General of Unesco on January 27, 1955: "I am ... instructed by the Minister of Foreign Affairs to inform you that the Spanish ratification of the Universal Copyright Convention applies solely to the documents in fact signed, viz., the Convention and Protocol N° 2...". The States concerned were informed of this communication by circular letter of March 25, 1955.

8) The Director-General of Unesco received notifications from the Government of the United Kingdom concerning the application of the Convention to the Isle of Man, Fiji Islands, Gibraltar and Sarawak (coming into force on March 1, 1962), to Zanzibar, to the Bermudas and North Borneo (coming into force on May 4, 1963), to the Bahamas and the Virgin Islands (coming into force on July 24, 1963), to the Falkland Islands, Kenya, St. Helena and Seychelles (coming into force on January 29, 1964), to Mauritius (coming into force on January 6, 1965), to Bechuanaland, Montserrat and Santa-Lucia (coming into force on May 8, 1966), to Grenada (coming into force on May 15, 1966), to the Cayman Islands (coming into force on June 11, 1966), to British Guiana (coming into force on June 15, 1966).

9) On December 6, 1954, the United States of America notified the Director-General of Unesco that the Convention shall apply, in addition to continental United States, to Alaska, Hawaii, the Panama Canal Zone, Puerto Rico and the Virgin Islands. On May 14, 1957, the United States of America further notified the Director-General of Unesco that the Convention shall apply to Gnam. Notification was received on May 17, 1957.

By letter of November 21, 1957, the Government of Panama contested the right of the Government of the United States of America to extend the application of the Convention to the Panama Canal Zone. By letter of January 31, 1958, the Government of the United States of America asserted that such extension of the Convention was proper under Article 3 of its 1903 treaty with Panama. Copies of the two letters have been communicated by the Director-General to all States concerned.

### 3. European Agreement concerning Programme Exchanges by Means of Television Films (Paris, December 15, 1958)

Contracting States	Deposit of Instrument	Coming into Force	Signature without Reservation in respect of Ratification (S) or Ratification (R)
Belgium	March 9, 1962	April 8, 1962	R
Denmark	October 26, 1961	November 25, 1961	R
France	December 15, 1958	July 1, 1961	S
Greece	January 10, 1962	February 9, 1962	R
Ireland	March 5, 1965	April 4, 1965	S
Luxembourg	October 1, 1963	October 31, 1963	R
Norway	February 13, 1963	March 15, 1963	R
Sweden	May 31, 1961	July 1, 1961	R
Turkey	February 27, 1964	March 28, 1964	R
United Kingdom	December 15, 1958	July 1, 1961	S

### 4. European Agreement on the Protection of Television Broadcasts (Strasbourg, June 22, 1960)

Contracting States	Deposit of Instrument	Coming into Force	Signature without Reservation in respect of Ratification (S) or Ratification (R)
Denmark <sup>1)</sup>	October 26, 1961	November 27, 1961	R
France	June 22, 1960	July 1, 1961	S
Sweden	May 31, 1961	July 1, 1961	R
United Kingdom <sup>1)</sup>	March 9, 1961	July 1, 1961	R

<sup>1)</sup> The instruments of ratification were accompanied by "options" in accordance with Article 3, paragraph 1, of the Agreement. As to Denmark, see *Le Droit d'Auteur*, 1961, p. 360; as to United Kingdom, see *ibid.*, 1961, p. 152.

### Protocol to the said Agreement (Strasbourg, January 22, 1965)

Contracting States	Deposit of Instrument	Coming into Force	Signature without Reservation in respect of Ratification (S) or Ratification (R)
Denmark	January 22, 1965	March 24, 1965	S
France	January 22, 1965	March 24, 1965	S
Sweden	January 22, 1965	March 24, 1965	S
United Kingdom	February 23, 1965	March 24, 1965	S

## OBITUARY

### Alphonse Tournier

The legion of defenders of copyright has recently lost one of its bravest generals: Alphonse Tournier, who died on May 14, 1966, in Paris. His departure will be sadly felt within those circles concerned with the protection of intellectual property rights.

It would be most unjust were "swift oblivion, second shroud of the dead", as Lamartine put it (*le rapide oubli, second linceul des morts*), to tarnish the memory of Alphonse Tournier; but in fact this need not be feared, for the gratitude of present and future generations will reflect the remarkable personality of this, in the full sense of the word, "expert".

Alphonse Tournier was one of the most competent and renowned experts in the copyright field and one whose opinions were most respected. His knowledge of legal doctrine, his very special (incomparable) manner of analysing problems, his clear-sighted appreciation of their practical consequences, made this surgeon of legal logic, a man whose opinions became an authority not only in his own country but also, and above all, internationally.

On the eve of the Stockholm Conference for the revision of the Berne Convention, on which he was an invaluable commentator, his death is a heavy blow for intellectual creators whose claims he put forward with precision and, when necessary, with force.

To retrace the career of Alphonse Tournier amounts to a description of the evolution of copyright in France since the 1920s, and more particularly, the evolution of the right of mechanical reproduction, to the development of which he devoted his life. Born on December 11, 1890, to a family of modest circumstances, he completed brilliant secondary and later higher studies. A *licence ès lettres* and a diploma in higher German studies led him to attempt the *agrégation* in Goethe's language, when the first World War interrupted his university career. For his part in the battles of Eparges, the Marne and Verdun, he was mentioned several times in despatches, was awarded the *Croix de guerre* and, on his return to civilian life, the red ribbon for his button-hole.

At that time Alphonse Tournier's life was affected by a certain event: in June 1921, he was made an offer by Mr. Delavenne, President of the General Council of the Seine, to enter the EDIFO company, with responsibility for defending, commercially, the interests of authors, at the time of the first stammerings of the "talking machine" and of records. Grasping the full importance of this new means of reproducing works — and the future was to show the extent to which he

was right — Alphonse Tournier thenceforth devoted himself to the protection of the right of mechanical reproduction, and in 1929, he founded in collaboration with Mr. René Dom-mange and several publishers, the International Bureau for Mechanical Reproduction (BIEM), of which he was, until his death, the eminent Director-General. In this capacity, he took part in various international meetings which marked the adaptation of classical copyright to contemporary requirements and which led to a climate, an atmosphere, a general political situation and a field of action entirely different to those with which the promoters of 1866 were faced. His role at the Diplomatic Conference of Brussels in 1948, and during the preparatory work for the Diplomatic Conference of Stockholm, which will take place in 1967, was remarkable, for he knew how to weigh the arguments of the opposition at their real value, while at the same time ensuring that the legitimate interests of which he was the guardian, were taken into consideration. His work as rapporteur general of the Author's Consultative Committee, created under the auspices of BIRPI in connection with preparations for the Stockholm revision, will most certainly make a contribution to a better understanding of the problems concerned by the plenipotentiaries who will meet in the Swedish capital in 1967.

Alphonse Tournier, moreover, took an active part in the elaboration of the new French Copyright Law, first under the Ministry of Jean Zay, and later, in the years after the war, until the law was voted in 1957. He was Secretary of the Ministerial Committee on Intellectual Property.

Appointed technical adviser of SACEM in 1953, he put life into the *Revue internationale du droit d'auteur (RIDA)* of which he was one of the founders. His fertile pen has left to posterity many articles on doctrine which will always be profitably consulted. His indefatigable activity led him, too, to participate assiduously in the meetings of the International Confederation of Author's and Composer's Societies (CISAC), and to present there many papers which will remain amongst the most valuable articles in the legal archives of the Organisation.

If to adopt the words of Honoré de Balzac in *La Recherche de l'absolu*, "glory is the sun of the dead" (*la gloire est le soleil des morts*), that of Alphonse Tournier will shine for many years in the firmament of international copyright, and it is incontestable that his work will not readily be forgotten.

Claude MASOUYÉ  
Counsellor



UNITED STATES. COMMITTEE ON THE JUDICIARY. *Copyright Law Revision. Hearings before Sub-committee No. 3 of the Committee on the Judiciary, House of Representatives, 89th Congress, 1st Session. Serial No. 8.* Washington, U. S. Government Printing Office, 1966. - 3 vol., VIII-2056 p.

VOGEL (Botho). *Die Rechtsbeziehungen zwischen Filmverleiher und Filmtheaterbesitzer im Rahmen der Bezugsbedingungen.* Munich, s. n., 1961. - 120 p. Thesis.

WIPF (Rudolf). *Die Stellung des Filmregisseurs im Urheberrecht.* Zurich, Juris Druck, 1966. - XIX-126 p. Thesis.

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Die Stellung des Filmregisseurs im Urheberrecht [The position of the film director in copyright], by Rudolf Wipf. A volume of 126 pages, 22,5 × 15,5 cm. Juris Druck & Verlag, Zurich, 1966.

This is the work of a young author (his thesis for a doctor's degree); it is based not only on the Swiss legislation, but also on the Berne Convention and the contemporary doctrine and practice in several countries.

In the first part of the book, there is a summary of general ideas on film, its technical characteristics and its legal elements. In the second part, the author gives a survey of various theories concerning the role of the director and that of other persons contributing to the creation of a film. Lastly, in the third part, he proposes certain solutions which should give an answer to the much discussed question of authorship in the sphere of film.

The author maintains the theory according to which the film is a work of collaboration (*Gemeinschaftswerk*). On the other hand, he compares the role of the producer to that of a manufacturer (*Filmindustrial*). He concludes that, among the authors of a film — including the author of the script, the composer of the music, and the director — the latter is the principal creator. Trying to find a solution to the problem of mutual relations between co-authors of a film, he brings forward the idea that there is here a partnership *ex lege*, whose members should — by a legal presumption — authorize the director to represent them generally as co-authors.

Finally, it should be noted that this book also includes an exhaustive bibliography. It can be recommended to all those who are interested in the very topical question of copyright in film. M. S.

## CALENDAR

### Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
September 26 to 29, 1966 Geneva	Interunion Coordination Committee	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union; United Nations
September 26 to 29, 1966 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (2nd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union; United Nations
September 29 and 30, 1966 Geneva	Council established by the Agreement of Lisbon for the Protection of Appellation of Origin and their International Registration	Preparatory work in relation to the entry into force of the Agreement	All Member States of the Agreement of Lisbon	
October 30 to November 4, 1966 Budapest	East/West Industrial Property Symposium	Discussion of practical questions of industrial property		Open. Registration required

Date and Place	Title	Object	Invitations to Participate	Observers Invited
November 7 to 11, 1966 Geneva	Committee of Experts on a model law for developing countries on marks, trade names, indications of source, and unfair competition	To draft a Model Law on Trademarks for developing countries	<i>Africa:</i> Algeria, Burundi, Congo (Leopoldville), Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Malawi, Mali, Morocco, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tunisia, United Arab Republic, Uganda, Zambia <i>America:</i> Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guiana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela <i>Asia:</i> Afghanistan, Burma, Cambodia, Ceylon, China (Taiwan), India, Indonesia, Iraq, Iran, Jordan, Korea, Kuwait, Laos, Lebanon, Malaysia, Maldive Islands, Mongolia, Nepal, Pakistan, Philippines, Saudi Arabia, Singapore, Syrian Arab Republic, Thailand, Viet Nam, Yemeu <i>Others:</i> Cyprus, Malta, Western Samoa	United Nations; Council of Europe; European Economic Community; Latin American Free Trade Association; African and Malagasy Industrial Property Office; International Association for the Protection of Industrial Property; International Chamber of Commerce; Inter-American Association of Industrial Property; International Federation of Patent Agents
December 13 to 16, 1966 Geneva	<i>Ad hoc</i> Conference of the Directors of National Industrial Property Offices and Committee of Directors of the Madrid Union	Adoption of the Transitional Regulations of the Madrid Agreement (Trademarks)	All Member States of the Madrid Agreement (Trademarks)	All other Member States of the Paris Union

1967
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June 12 to July 14, 1967 Stockholm	Intellectual Property Conference of Stockholm, 1967	<p>(a) General Revision of the Berne Convention (Copyright)</p> <p>(b) Revision of the Paris Convention (Industrial Property) on the question of inventors' certificates</p> <p>(c) Revision of the administrative and final clauses of the Berne and Paris Conventions and of the Special Agreements concluded under the latter</p> <p>(d) Establishment of a new Organization</p>	<p>For (a), (b) and (c): Member States of the various Unions</p> <p>For (d): States Members of the United Nations or any of the UN Specialized Agencies</p>	<p>States: States not members of the Unions [for (a), (b) and (c)]</p> <p><i>Intergovernmental Organizations:</i> United Nations; International Labour Organization; World Health Organization; United Nations Educational, Scientific and Cultural Organization; General Agreement of Tariffs and Trade; International Institute for the Unification of Private Law; International Olive Oil Council; International Patent Institute; International Vine and Wine Office; African and Malagasy Industrial Property Office; Council of Europe; Latin American Free Trade Association; Organization of American States</p> <p>Interested Non-Governmental Organizations</p>
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## Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
The Hague	October 10 to 21, 1966	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	6 <sup>th</sup> Annual Meeting
Hollywood	October 11 to 17, 1966	International Writers Guild (IWG)	1 <sup>st</sup> Congress
Brussels	November 17 to 19, 1966	International Literary and Artistic Association (ALAI)	Executive Committee

