

Copyright

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WORLD INTELLECTUAL PROPERTY ORGANIZATION

RUMANIA

Ratification of the WIPO Convention

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 of and, in accordance with the provisions of the above Convention, has the honor to notify him that the Government of the Socialist Republic of Rumania deposited, on February 28, 1969, its instrument of ratification dated December 28, 1968, of the Convention Establishing the World Intellectual Property Organization (WIPO), with the following declaration:

“The provisions of Articles 5 and 14(1) of the Convention Establishing the World Intellectual Property Organization

signed at Stockholm on July 14, 1967, are not in accordance with the principle of universality of treaties, by which all States have the right to become parties to multilateral treaties regulating questions of general interest.” *(Translation)*

The Socialist Republic of Rumania has fulfilled the condition set forth in Article 14(2) of the Convention by concurrently ratifying the Stockholm Act of the Paris Convention in its entirety.

A separate notification will be made of the entry into force of the said Convention, when the required number of ratifications or accessions is reached.

Geneva, March 10, 1969.

WIPO Notification No. 9

UKRAINIAN SOVIET SOCIALIST REPUBLIC

Ratification of the WIPO Convention

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 of . . . and, in accordance with the provisions of the above Convention, has the honor to notify him that the Government of the Ukrainian Soviet Socialist Republic deposited on February 12, 1969, its instrument of ratification dated September 30, 1968, of the Convention Establishing the World Intellectual Property Organization (WIPO), with the following declaration:

“The Ukrainian Soviet Socialist Republic declares that the Convention Establishing the World Intellectual Property Organization regulates questions concerning the interests of all countries; and that is why it must be open to participation of all States, in accordance with the principle of their sovereign equality.” *(Translation)*

The deposit of this instrument of ratification is in conformity with the provisions of Article 14(1)(ii) and of Article 5(2)(i) of the said Convention.

Geneva, February 24, 1969.

WIPO Notification No. 7

UNITED KINGDOM

Ratification of the WIPO Convention*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 of and, in accordance with the provisions of the above Convention, has the honor to notify him that the Government of the United Kingdom of Great Britain and Northern Ireland deposited on February 26, 1969, its instruments of ratification dated November 18, 1968, of the Convention Establishing the World Intellectual Property Organization (WIPO).

The United Kingdom of Great Britain and Northern Ireland has fulfilled the condition set forth in Article 14(2) of

the Convention by concurrently ratifying the Stockholm Act of the Paris Convention in its entirety and by acceding to the Stockholm Act of the Berne Convention with the declaration provided for in Article 28(b)(i) of the said Act to the effect that the accession shall not apply to Articles 1 to 21 and to the Protocol Regarding Developing Countries.

A separate notification will be made of the entry into force of the said Convention, when the required number of ratifications or accessions is reached.

Geneva, March 10, 1969.

WIPO Notification No. 8

INTERNATIONAL UNION

UNITED KINGDOM

**Accession to the Stockholm Act of the Berne Convention
(with the exception of Articles 1 to 21 and of the Protocol Regarding Developing Countries)**

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 of and, in accordance with the provisions of the Stockholm Act of the above Convention, has the honor to notify him that the Government of the United Kingdom of Great Britain and Northern Ireland deposited on February 26, 1969, its instrument of accession dated November 18, 1968, to the Berne Convention for the Protection of Literary and Artistic Works

of September 9, 1886, as revised at Stockholm on July 14, 1967, with the declaration provided for in Article 28(b)(i) of the said Act to the effect that the accession shall not apply to Articles 1 to 21 and to the Protocol Regarding Developing Countries.

A separate notification will be made of the entry into force of the Stockholm Act of the said Convention when the required number of ratifications or accessions is reached.

Geneva, March 10, 1969.

Berne Notification No. 7

Extraordinary Session of the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union)

(Paris, February 3 to 7, 1969)

Final Report

First Part: Report on the Meetings of the Permanent Committee Alone

1. The Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) hereafter referred to as "The Permanent Committee" met in extraordinary session from February 3 to 7, 1969, in Paris, at the Headquarters of Unesco, which had extended its hospitality to the Committee because of the fact that an extraordinary session of the Intergovernmental Copyright Committee was being held there at the same time.

2. The twelve States members of the Permanent Committee were represented: Belgium, Brazil, Denmark, France, Germany (Federal Republic), India, Italy, Portugal, Rumania, Spain, Switzerland, United Kingdom.

3. Representatives of the following States, being members of the Berne Union, parties to the Universal Copyright Convention or Members of Unesco, were present as observers: Afghanistan, Algeria, Andorra, Argentina, Austria, Canada, Ceylon, Chile, Costa Rica, Czechoslovakia, Finland, Guatemala, Holy See, Ireland, Israel, Japan, Kenya, Laos, Madagascar, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Senegal, Sweden, Thailand, Tunisia, Turkey, United States of America, Uruguay and Yugoslavia.

4. Observers had also been sent by three intergovernmental organizations, twelve international non-governmental organizations and three national organizations.

5. The list of participants is appended to this report (Annex C).

6. In the absence of the Chairman, H. E. Ambassador Tristram Alvis Cippico (Italy), the Vice-Chairman of the Permanent Committee, Mr. Jorge Carlos Ribeiro (Brazil) opened the extraordinary session and, stressing the importance of the matters on the agenda, hoped that the discussions would be fruitful.

7. Professor G. H. C. Bodenhausen, the Director of BIRPI, wished the Permanent Committee every success in carrying out the work to be done during the extraordinary session.

8. Mr. H. Saba, representing the Director-General of Unesco, also expressed his good wishes and welcomed the Permanent Committee on behalf of his Organization. He reminded the meeting that it was not the first time that this Committee and the Intergovernmental Copyright Committee had had occasion to co-operate in studying the problems of international copyright.

9. The Director of BIRPI then informed the Permanent Committee of the Chairman's resignation and pointed out

that the Internal Rules (Rule 9) provided a possible basis for a solution in the event of there being no Chairman.

10. On the proposal of the Italian delegation, seconded by the delegation of the Federal Republic of Germany, the Permanent Committee unanimously invited Mr. Jorge Carlos Ribeiro (Brazil), the Vice-Chairman, to act as Chairman.

11. In accordance with Rule 7(3), of the Internal Rules of the Permanent Committee, the International Bureau of the Berne Union (BIRPI) was responsible for the secretariat of the debates.

12. After adopting its agenda, the Permanent Committee proceeded to consider the items on the basis of the working papers prepared and distributed by BIRPI.

13. The Permanent Committee was convened in extraordinary session at the request of the Director of BIRPI, for the special purpose of helping him in formulating the advice which he might be called upon to give to the Intergovernmental Copyright Committee on the revision of the Universal Copyright Convention with respect to matters of concern to the Berne Union (in particular, the amendment of Article XVII of the said Convention and the Appendix Declaration relating thereto).

14. As these matters relate essentially to the protection of copyright in developing countries, the Director of BIRPI first submitted to the Permanent Committee the present results of the inquiry he had carried out, in pursuance of the resolution adopted at the 13th ordinary session (Geneva, December 1967), on the intentions of States members of the Berne Union with regard to the application of the Protocol Regarding Developing Countries, annexed to the Stockholm Act of the Berne Convention.

15. Having considered these replies, the Permanent Committee heard a number of supplementary statements from States which had not yet replied to the above-mentioned inquiry.

16. Mr. de San (Belgium) said that, in this country, the ratification of international instruments was a prerogative of the legislature and that the question would therefore have to be put before the Belgian Parliament. He added that the problem of revision of the Universal Convention seemed to him to be linked with the entry into force of the Protocol and that, in the circumstances, the Belgian Government would not be able to define its position until the results of the work of the joint study group which was to be set up were available.

17. Mr. Stoenescu (Rumania) said that his country's instruments of ratification of the Convention establishing the World Intellectual Property Organization and of the Stockholm Act of the Paris Convention (industrial property) would shortly be deposited. He added that the Protocol and the Stockholm Act of the Berne Convention were under consideration and that information regarding the situation would be given as soon as possible.

18. Mr. Weincke (Denmark) explained that the Danish Government had not yet come to a decision and it was the Danish Copyright Council which had come out in favour of a declaration of application of the Protocol.

19. The Permanent Committee then studied the report of the Director of BIRPI on the consultations he had had with the United Nations Secretariat concerning the definition of "a developing country in conformity with the established practice of the General Assembly of the United Nations" (Article 1 of the Protocol). It emerged from these consultations that the criterion suggested was based on the idea of assessments of Member States and the relaxation from the obligation to pay them. A list of States benefiting from such exemption had been sent by the Secretariat of the United Nations to the Director of BIRPI. The Director had submitted it to the Permanent Committee as a list of countries which might be considered developing countries within the meaning of Article 1 of the Protocol.

20. Mr. Laurelli (Argentina) noted that his country and certain other Latin American countries were not included in the list; he hoped that the criteria of the United Nations Conference on Trade and Development (UNCTAD) would be adopted in preference to the other system, in view of the relationship which exists between social and cultural problems and economic problems. The Chairman of the Permanent Committee pointed out, however, that such a proposal had been expressly rejected by the Stockholm Conference.

21. After taking note of the report by the Director of BIRPI, the Permanent Committee decided, on the proposal of its Chairman, to keep the question of the definition of developing countries on its agenda and, in particular, to reconsider it at its next ordinary session.

22. Having thus examined the matters directly connected with the Protocol adopted at Stockholm (intentions of Member States concerning its application; criterion for determining which countries were to benefit from it) the Permanent Committee then studied the report of the Director of BIRPI concerning a possible revision of Article XVII of the Universal Copyright Convention and the Appendix Declaration relating thereto, the problems which it involved and its possible consequences.

23. Mr. Balakrishnan (India) was worried about the delay in the entry into force of the Stockholm Act of the Berne Convention and feared that the revised Act of the Universal Convention would suffer the same fate. The delay tactics adopted by certain countries in regard to ratification seemed to him regrettable.

24. Mr. Chakroun (Morocco) reminded the meeting that the developing countries were mainly importers of intellectu-

al works; he deplored that the Stockholm revision had not achieved its purpose owing to failure on the part of the advanced countries to ratify it. He hoped that there would be a change in attitude, to avoid the world becoming divided into two opposing groups.

25. Mr. Chaudhuri (India) emphasized the extent of the developing countries' needs, particularly for low-priced educational literature. He thought that the solution lay not in importing books, but in legal measures such as those established at Stockholm. He also drew attention to the problem of regional languages, in connection with the translation of scientific and educational books. He suggested, moreover, that not only should Article XVII of the Universal Convention be revised, but provisions similar to those of the Stockholm Protocol should be introduced into that Convention. He did not believe that there were any grounds for the fears of the developed countries concerning the Protocol, since its application would not mean that every book would be reproduced; what could be translated and reproduced should be clearly defined and specified. In his opinion, copyright did not have absolute force and should be subjected to certain restrictions for the purpose of aiding the developing countries in their national education and advancement policies. In conclusion, he hoped that the spirit which had reigned during the drawing up of the Stockholm Protocol would be preserved in the future.

26. Mr. Charpentier (France) stated that his delegation felt that revision of Article XVII of the Universal Convention was justified all the more so since the ratification of the Stockholm Protocol was encountering difficulties.

27. Mr. Laurelli (Argentina) recalled that the developing countries still had full freedom to decide what their international relations concerning copyright should be; he felt that a close examination of the general situation was necessary, with particular reference to the relations between the two Conventions and the need to avoid clashes in matters of jurisdiction as well as the vulnerability of copyright. He pointed out that while his country was still in favour of an amendment to the provisions of the Universal Copyright Convention such an amendment should be introduced only after a thorough study had been made of the whole range of problems which were arising at the present time with regard to copyright protection in order to avoid any confrontation between poor and rich countries.

28. Mr. Ulmer (Federal Republic of Germany) stated that his Government had submitted the Stockholm Act of the Berne Convention, in its entirety, to its Parliament for ratification; the Parliament has not yet made its decision. His view was that, if that Act entered into force, revision of Article XVII of the Universal Convention was not necessary, as the Protocol would be sufficient. However, in view of the hesitancy in that respect apparent in certain developed countries, the wish to revise the Universal Copyright Convention was understandable. Mr. Ulmer considered that such a revision might impair the universal scope of the Berne Union. He reminded the meeting that, for the Intergovernmental Copyright Conference in Geneva in 1952, the establishment

of the safeguard clause (Article XVII) had been a question of substance and that the preamble to the Universal Convention expressly mentioned the desire of States not to impair the Berne Convention. He suggested that if the link between the two Conventions defined by Article XVII were ended, it would be advisable to replace it by another; the revision should be studied in the general context, having regard to the problems as a whole, with the object of ensuring better development of international copyright.

29. Mr. Archi (Italy) reiterated that the Italian Government was favourable towards a revision, limited solely to Article XVII, of the Universal Copyright Convention. He underlined the fact that the present situation was different from that in 1952 (Geneva Conference), because at that time the idea of developing countries did not exist.

30. Mr. Fernandez de la Mora (Spain) expressed himself along the same lines as the delegate of Italy.

31. The Director of BIRPI stressed the indisputable relationship between the revision of Article XVII of the Universal Convention and acceptance of the Stockholm Protocol. It did not seem to him that there was undue delay between signature and ratification of the latter; in many countries, the decision was subject to Parliamentary procedure; many interests and problems were, moreover, involved, and one group of countries would delay its decision until it knew what another group was doing, and vice versa. The Director of BIRPI also drew attention to the need for developing countries to enact legislation prior to the implementation of the Protocol. He informed the Permanent Committee that, in order to make the situation more flexible, it was planned to prepare certain models which would show how the Protocol might be applied so as to satisfy the various categories of interests involved.

32. The Director of BIRPI also drew the Permanent Committee's attention to the differences that appeared to exist among the countries in favour of a revision of the

Universal Copyright Convention, and to the problems to be solved: To what extent should the Universal Copyright Convention be revised? Which provisions could be amended? What procedure should be followed? What kind of relationship should there be between the two Conventions? He suggested that the Permanent Committee should hold a joint meeting with the Intergovernmental Copyright Committee in order to set up the proposal study group, and that this group should then come to a decision, within the limits of its competence concerning the revision of the Universal Convention.

33. The Chairman noted, in conclusion, that no general opinion of the Permanent Committee had been recorded, but that a number of views had been expressed.

34. Following the meetings of the Intergovernmental Copyright Committee on its own, and the adoption of a resolution establishing a sub-committee to examine the issues raised by the proposals for the revision of Article XVII of the Universal Copyright Convention and its Appendix Declaration, the Director of BIRPI informed the Permanent Committee of his intention to ask the Chairman to call an extraordinary session of the Committee immediately before the meetings of the said subcommittee. The purpose of this extraordinary session would be two-fold: on the one hand to assist the Director of BIRPI in the advice he will be called upon to give to the subcommittee on the issues included in its mandate; and on the other hand to designate the two States members of the Permanent Committee to attend the meetings of the sub-committee as observers.

35. Mr. Ulmer (Federal Republic of Germany) supported the proposal of the Director of BIRPI and emphasized that it would be necessary for the Permanent Committee to formulate its advice on the issues to be considered by the subcommittee which were of direct interest to the Berne Union.

36. The Chairman of the Committee, noting the agreement of the Committee on this proposal, declared that it was so decided.

Second Part: Report on the Joint Meetings of the Permanent Committee and of the Intergovernmental Copyright Committee

37. After separately examining such questions as solely concerned their respective terms of reference, the Committees met together to consider what action should be taken in pursuance of resolutions 3 and 59(IX), adopted respectively by the Permanent Committee of the Berne Union and by the Intergovernmental Copyright Committee at their ordinary sessions held in December 1967, concerning the setting up, composition and terms of reference of a joint study group on international copyright.

38. The United States representative stated that suggestions so far made under existing international agreements to meet the needs of developing States had produced nothing definite, and that short-term and long-term solutions must be envisaged. International copyright agreements should not simply protect, but also facilitate the utilization of intellectual property. The joint study group should therefore give pri-

ority consideration to the immediate problems and to the needs of the developing countries; its terms of reference should be based on the resolutions 3 and 59(IX), adopted by the two Committees in 1967, and it should report back periodically to the Chairman of the Committees.

On behalf of American publishers, he read out a statement referring to the main problems and the publishers' interest in finding solutions for them. This statement is annexed to this report (Annex B).

He invited the joint study group to hold its first session in Washington from September 29 to October 3, 1969.

39. The representative of France recalled that States were hesitant about ratifying the Stockholm Protocol, which did not seem to have justified the hopes placed in it. The establishment of a joint study group should ensure a coherent approach to current problems in international copyright, pro-

vided that its terms of reference were as broad as possible and that a comprehensive examination was made of international copyright relations, for a twofold purpose: to find a legal framework that would take care of the needs of the developing countries and, on the model of the Berne Convention, to ensure a high degree of protection for the products of intellectual creativity. It should fix its own method of work. The qualified representatives of authors should be associated with its deliberations.

40. The representative of Italy supported the United States proposal to set up a joint study group, but recalled that the group should not discuss the revision of Article XVII of the Universal Convention and the Appendix Declaration relating to it.

41. The representatives of Kenya and Mexico agreed with the representative of Italy.

42. The representative of France also agreed. The terms of reference of the joint study group should not concern the revision of Article XVII of the Universal Copyright Convention. France was very much in favour of there being two Conventions.

43. The representative of the Federal Republic of Germany also supported the United States proposal. The two essential questions for examination by the group were the relations between the two existing copyright conventions, and the relations between advanced and developing countries. It seemed to him that the revision of Article XVII of the Universal Convention was also a matter that affected the relations between the two Conventions.

44. The representative of Spain, agreeing with the last speaker, pointed out that there were not only legal and political aspects, but also economic; they should be discussed in the spirit of the Berne Union without prejudice to a right hitherto regarded as universal.

45. The Canadian observer stressed the urgency of solving problems which justified setting up the proposed group, whose terms of reference should be as wide as possible.

46. The United Kingdom representative suggested that one long-term aim of the study group might be to prepare a single Convention affording two different levels of protection, the level as regards the advanced countries being that of the Stockholm Act of the Berne Convention, excluding the Protocol.

47. The representative of India suggested that three points concerning international copyright were at issue: revision of Article XVII of the Universal Convention; matters, other than that revision, which were questions for the joint study group; and Unesco aid in setting up an information centre to provide some immediate way of dealing with the problems of the developing countries. Drawing up a third convention could easily hold up a solution of the existing problems and therefore India would be opposed to it.

48. The representative of Switzerland agreed with previous speakers that the terms of reference should be as wide as possible, but doubted whether the proposed timetable could be respected.

49. The Argentine observer endorsed what had been said by the representatives of the Federal Republic of Germany and the United States and urged that priority be given to examining relations between advanced and developing countries, so as to allow the latter easier access to intellectual property.

50. The representative of Belgium said that the United States proposal offered a promising basis for conciliation and a shared approach.

51. The representative of Denmark and the Swedish observer supported the United States proposal.

52. The observer from Monaco asked whether problems raised by satellite transmission should not also be considered by the group.

53. The Assistant Director-General for International Standards and Legal Affairs of Unesco and the Director of BIRPI informed the Committees of the activities envisaged on this subject by their organizations.

54. After the general exchange of views, the Committees discussed the composition and terms of reference of the joint study group.

55. On the basis of two proposals, regarding its composition submitted by the representatives of India and of Italy, the Committees agreed on the list of twenty-six States named in the resolution relating to the joint study group.

56. The Committees discussed the admission, as observers, of representatives of the interests concerned. The observers from the International Literary and Artistic Association, the International Confederation of Societies of Authors and Composers, the International Writers' Guild and the International Publishers' Association stressed the necessity of having those directly concerned represented at the meetings of the group.

57. Some delegates referred to the desirability of arranging for the representation also of users of property protected by copyright.

58. The Committees finally considered that the question of representation on the group of the interests concerned could be settled at the same time as the group's terms of reference.

59. The Committees set up a working group to draw up precise terms of reference, composed of representatives of France, Federal Republic of Germany, India, Italy, United Kingdom, United States, and with the Chairman of the Committees as Chairman. The working group submitted to the Committees a draft resolution regarding the joint study group on international copyright.

60. When this resolution was adopted, the Committees were unanimous in specifying, in reply to remarks by the representative of Belgium, that the group was to be consultative in character.

61. During the discussion of paragraph 7(a) of the resolution, it was generally agreed that the studies concerning an international mechanism which would enable the developing countries to have easier access to copyrighted works should not bear for the moment on national or international fi-

nancing procedures, which might have implications going beyond the specific problems of copyright.

62. The observer of Sweden proposed that under paragraph 7(b) a reference be made to the principles of the Stockholm Protocol. However, after a discussion, this proposal was withdrawn.

63. With regard to paragraph 7(c), the observers from Monaco and Tunisia were afraid that the terms of reference of the joint study group with regard to the methods which might be used in establishing links between the two existing Conventions might affect those of the sub-committee set up under resolution No. 1(XR) to prepare for the revision of Article XVII of the Universal Convention.

64. The representative of the Federal Republic of Germany pointed out that, besides the question of a possible replacement of the special link of Article XVII of the Universal Convention and the Appendix Declaration by another link, there might be envisaged general links between the two Conventions which the joint study group could examine.

65. The Tunisian observer having raised the question where the joint secretariat of the study group would be located, it was explained that any communications could be sent either to Unesco or to BIRPI, each of these organizations undertaking to transmit immediately to the other any communications so received.

66. The Committees then adopted, each so far as it was concerned, resolutions Nos. 1 and 2 (XR). The text of resolution No. 1 is annexed to this report (Annex A).

67. The representative of France, speaking for all the participants, congratulated the Chairman of the Committees for the patience, competence and flexibility which he had shown in conducting the discussions. He also thanked the Secretariats whose assistance had contributed to the development of the work.

68. The representatives of the United States of America, India and Mexico joined in these remarks.

69. The Chairman thanked the participants for the work they had accomplished. He expressed his gratitude to the Committees for the confidence they had placed in him and observed that the results of the meetings could be considered as the beginning of a constructive period for the future of international copyright.

70. On behalf of the international non-governmental organizations, the President of the International Literary and Artistic Association joined the congratulations addressed to the Committees and to their Chairman.

71. The Chairman then declared the extraordinary sessions of the Committees closed.

ANNEX A

Resolution Concerning the International Copyright Joint Study Group

Resolution No. 1

The Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) sitting with the Intergovernmental Copyright Committee,

1. *Considering* the serious present and potential problems of multi-lateral copyright relations, considering the necessity of furthering the betterment of mankind as well as the urgent requirements of developing countries in the educational field and the impact of international copyright arrangements upon them, considering also the economic problems of domestic production and international exchanges of intellectual works;

2. *Recalling* that the Stockholm Conference on Intellectual Property (1967) has adopted the Stockholm Act of the Berne Convention including the Protocol Regarding Developing Countries, and noting that the Protocol has not been adopted by many of the Member States, and recalling resolutions 3 and 59(IX) adopted by the Committees at their thirteenth and ninth sessions respectively, held in December 1967, as well as resolution No. I(XR) adopted by the Intergovernmental Copyright Committee at its present session;

3. *Establishes* a group for the study of the entire situation of international relations in the field of copyright, to be called the International Copyright Joint Study Group;

4. *Accepts* with appreciation the invitation of the representative of the United States of America to hold the first session of the Joint Study Group in Washington;

5. *Adopts* the following decisions concerning the duties and composition of the Joint Study Group, and its procedure during the period preceding the next regular sessions of the Permanent Committee and the Intergovernmental Copyright Committee;

6. The Joint Study Group may examine any questions concerning international copyright relations and their practical implications;

7. The Joint Study Group, shall, as a matter of priority, deal with the following matters which will be included in the agenda of its first session:

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

8. The Joint Study Group shall consist of representatives of the following 26 States: Argentina, Australia, Brazil, Canada, Ceylon, Czechoslovakia, France, Germany (Federal Republic), India, Italy, Ivory Coast, Japan, Kenya, Mexico, Netherlands, Nigeria, Peru, Philippines, Rumania, Senegal, Spain, Sweden, Tunisia, United Kingdom, United States of America, Yugoslavia;

9. The Joint Study Group shall have a joint secretariat furnished by BIRPI and Unesco;

10. The first session of the Joint Study Group shall be held in Washington from 29 September to 3 October 1969;

11. Governments of the States Party to the Berne Convention, the Universal Copyright Convention, or both, and all interested international non-governmental organizations, are invited to communicate to the Joint Secretariat, before 1 May 1969, studies or proposals on any question within the competence of the Joint Study Group, particularly on the matters mentioned in paragraph 7 above;

12. The working documents for the first session of the Joint Study Group shall consist of:

- (a) the studies and proposals referred to in paragraph 11 above, and
- (b) any reports that the Secretariats of BIRPI and Unesco may wish to submit jointly or separately, including, if possible, documentation on the importance of copyright royalties in the economies of different States, particularly the developing countries;

13. The working documents shall be communicated to the members of the Joint Study Group preferably by 1 July 1969;

14. The Joint Secretariat shall convene a one-day information meeting of the interested international non-governmental organizations in July or August 1969. At that meeting the Joint Secretariat shall invite the organizations represented to appoint a total of four persons, who shall be invited to attend the meetings of the first session of the Joint Study Group and to furnish such information or observations as may be requested by the latter. For this purpose the organizations representing authors shall be invited to appoint two persons, the organizations representing publishers shall be invited to appoint one person, and the organizations representing users of copyrighted works shall be invited to appoint one person;

15. The Joint Study Group shall appoint its officers and establish its Rules of Procedure at its first meeting;

16. The meetings of the first session of the Joint Study Group shall be closed;

17. The Joint Study Group shall report on the results of its first session and on its proposals as to its further work to the Permanent Committee and the Intergovernmental Copyright Committee at their next regular sessions. The two Committees shall, in the light of such report and any other relevant developments, make the necessary decisions for the continuation of the Joint Study Group, its procedures, and the representation of international non-governmental organizations.

ANNEX B

Statement of American Book Publishers

American publishers realize there are real and sufficient issues with which private enterprise and governments must quickly come to grips in order to implement policies which will balance the interests of copyright proprietors with the interests of users of copyrighted materials and, at the same time, give vigorous impetus to the dissemination of information and knowledge.

It is an historical and universally accepted fact that copyright protection and an international copyright structure have served as an important stimulus to authors and publishers in the creation of educational, scientific, and cultural works. It is also a matter of historical record that many American publishers, with the support of authors, have waived the generally accepted return on their efforts in order to assist developing countries in various ways, including:

(a) The granting of translation rights to thousands of titles at minimal terms.

(b) The granting of original language reprint rights for the publication of low-cost editions by publishers in developing countries.

(c) The publication of many low-cost editions which sell at a fraction of the U. S. list price.

(d) The participation in publishing and distribution seminars aimed at the development of indigenous publishing in developing countries.

That there can be improvements in certain areas is generally accepted.

American publishers recognize that any revision of existing copyright conventions will take time and they agree that, in the interim, greater recognition should be given to the needs of developing countries which are indeed continuing and urgent. The American publishers look forward to extending greater cooperation during the period when concerted and active efforts are also being made at the intergovernmental level to find long-range, coordinated solutions to the problem of international copyright.

American publishers are eager to facilitate clearances and contractual arrangements for both translations and reprints. To this end, they are prepared to encourage the establishment of an international clearing house. As envisaged, such a clearing house would cooperate actively with publishers in developing countries in order to:

(a) Facilitate the processing of simplified agreements in connection with the granting of rights for translations and original language reprints, at appropriate terms and conditions and with due consideration given to the stage of development and the particular needs of developing countries.

(b) Study with publishers in developing countries the various internal conditions inhibiting the development of indigenous publishing with a view towards extending financial and technical cooperation.

American publishers wholeheartedly support placing on the agenda the prompt study of the problems to which cognizance was given in the text of the resolutions adopted unanimously, at Geneva, in December of 1967 by the Intergovernmental Copyright Committee and the Permanent Committee of the Berne Union.

ANNEX C

List of Participants

I. Member States of the Permanent Committee

Belgium

Mr. Gérard L. de San, Director-General and Legal Counsellor, Ministry of National Education and Culture.

Mr. Jacques Bocqué, Assistant Counsellor, Ministry of Foreign Affairs and Foreign Trade.

Brazil

Mr. Jorge Carlos Ribeiro, Secretary of Embassy, Permanent Delegation of Brazil, Geneva.

Mr. Joracy Schafflör Camargo, Vice-President, National Commission of Brazil to Unesco.

Mr. Daniel da Silva Rocha, Delegate of Brazil.

Mrs. Rachel Proença Doyie, Delegate of Brazil.

Denmark

Mr. Willy Weincke, Chief of Department, Ministry of Cultural Affairs.

France

H. Exc. M. Pierre Charpentier, Ambassador, Ministry of Foreign Affairs.

Mr. André Kerever, Maître des requêtes, Council of State, Technical Advisor, Ministry of Cultural Affairs.

Mr. Jean Raux-Filio, Service of Cultural and Scientific Exchanges, Bureau of Cultural Relations, Ministry of Foreign Affairs.

Germany (Federal Republic)

Professor Dr. Eugen Ulmer, University of Munich.

Dr. H. G. Steinmann, Counsellor, Ministry of Foreign Affairs.

Mrs. Elisabeth Steup, Director, Ministry of Justice, Bonn.

India

Mr. Kanti Chaudhuri, Government Service, Ministry of Education.

Mr. S. Balakrishnan, Central Government Service, Ministry of Law

Italy

H. Exc. M. Pio Antonio Archi, Ambassador, Delegate for Intellectual Property Treaties, Ministry of Foreign Affairs.

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

Mr. Giuseppe Trotta, Judge at the Court of Appeal, Legal Advisor.

Mr. Antonio Ciampi, Director General, Italian Society of Authors and Publishers, Member of Permanent Consultative Copyright Committee.

Mr. Valerio De Sanctis, Legal Advisor, Italian Society of Authors and Publishers, Member of Permanent Consultative Copyright Committee.

Portugal

Dr. C. Soares Simoes Coelho, Ministry of Foreign Affairs.

Dr. M. Barbosa de Carvalho, Attorney.

Dr. E. Gomes de Abreu, Attorney.

Rumania

Mr. Dragos Stoencescu, Legal Advisor, Ministry of Foreign Affairs.

Spain

Professor G. Fernandez de la Mora, Deputy Director General of Cultural Relations.

Mr. Alfonso de Borbon y Carralte, Counsellor of Embassy.

Mrs. Isabel Fonseca-Ruiz, Director del Gabinete de Estudios, Department of Archives and Libraries.

Switzerland

Mr. Joseph Voyame, Director, Federal Bureau of Intellectual Property, Department of Justice and Police.

Mr. Jean-Louis Marro, Chief of Section, Federal Bureau of Intellectual Property.

United Kingdom

Mr. William Wallace, C. M. G., Assistant Comptroller of the Industrial Property and Copyright Department, Board of Trade.

II. Observers**(a) States not members of the Permanent Committee***Afghanistan*

Mr. Y. Samad, Attaché to the Embassy in Paris.

Algeria

Mr. S. Benouniche, Deputy Permanent Representative to Unesco.

Andorra

H. Exc. M. E. Garribues y Diaz Cañabate, Ambassador, Permanent Representative of Spain to Unesco.

Argentina

H. Exc. Dr. Bonifacio Lastra, Ambassador Extraordinary and Plenipotentiary, Permanent Representative to Unesco.

Mr. Luis Laurelli, Secretary of Embassy, Permanent Mission of Argentina in Geneva.

Austria

Professor Dr. Robert Dittrich, Head of Department, Federal Ministry of Justice.

Canada

Mr. A. M. Laidlaw, Commissioner of Patents for the Government of Canada.

Mr. F. W. Simons, Assistant Commissioner of Patents, Patent Office.

Mr. Jacques Corheil, Second Secretary, Permanent Mission of Canada in Geneva.

Ceylon

Mr. N. Balasubramaniam, Deputy Permanent Representative of Ceylon to Unesco.

Chile

Mr. Gaston Soubllette, Cultural Attaché, Deputy Permanent Representative to Unesco.

Costa Rica

Mrs. Iris Leiva Canales de Billault, Professor, Alternate Representative to Unesco.

Czechoslovakia

Dr. Jiří Kodač, Director, Legislative Department, Ministry of Culture.

Finland

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

Guatemala

Mr. Oscar Bertbolin y Galvez, Permanent Representative to Unesco.

Holy See

Mgr. Joseph Zabkar, Permanent observer to Unesco.

Ireland

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

Israel

H. Exc. M. Mosbé Avidor, Ambassador, Permanent Delegate to Unesco.

Japan

Mr. Shuzo Ogawa, Director, Cultural Affairs Division, Agency of Cultural Affairs, Ministry of Education.

Mr. Kichimasa Soda, Deputy Permanent Delegate to Unesco.

Kenya

Mr. D. J. Coward, Registrar General.

Laos

H. Exc. M. T. L. Rajasombat, Ambassador of Laos in France, Permanent Delegate to Unesco.

Madagascar

Mr. Gabriel Andrianarifetra, Deputy Permanent Representative to Unesco.

Mr. E. Rabesahala, Director of Cultural Affairs.

Mexico

Dr. Gonzalez Cosio, Director General of Copyright, Ministry of Public Education.

Dr. M. Acosta Romero, Department of Copyright, Ministry of Public Education.

Mr. J. M. Fernandez Unsain, President, Sociedad de Escritores de Cine, Radio y Televisión.

Mrs. Christiane de Diaz, Secretary of Permanent Delegation to Unesco.

Monaco

Dr. Georges Straschnov, Director, Department of Legal Affairs, European Broadcasting Union.

Morocco

Mr. Abdellab Chakroun, Assistant Director, Moroccan Broadcasting Organization, in charge of External Relations.

Netherlands

Mr. J. A. W. Schwan, Department of Legislation, Private Law, Ministry of Justice.

Mr. D. Wechgelaer, Ministry of Cultural Affairs.

Mr. W. J. Blackstone, Ministry of Cultural Affairs.

New Zealand

Mr. P. G. Heenan, Liaison Officer for Unesco Affairs, New Zealand Embassy, Paris.

Nicaragua

H. Exc. Dr. Julio Quintana Villanueva, Ambassador Extraordinary and Plenipotentiary of Nicaragua in France, Permanent Representative to Unesco.

Mr. A. Quintana, First Secretary, Embassy in Paris.

Mr. Luis Ibarra, Cultural Attaché.

Nigeria

Mr. Ademola Adeleye, Deputy Permanent Delegate to Unesco.

Peru

H. Exc. M. A. Wagner de Reyna, Ambassador, Permanent Delegate to Unesco.

Philippines

Mr. S. A. Barrera, Counsellor, Philippine Embassy, Paris.

Senegal

Mr. C. Dem, Secretary of Embassy, Paris.

Sweden

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

Thailand

Mr. V. Nitihon, Counsellor, Embassy, Paris.

Tunisia

Mr. Rafik Said, Minister Plenipotentiary, Deputy Permanent Delegate to Unesco.
Mr. Ahderrahmane el Amri, Attaché de Cabinet, State Secretary for Cultural Affairs and Information.

Turkey

Mr. S. Gunay, Cultural Attaché in Paris.

United States of America

Mr. Keld Christensen, Chief of the Business Practices Division, Department of State.
Miss Barbara A. Ringer, Assistant Register of Copyrights, Copyright Office, Library of Congress.
Mr. Richard Nohhe, Secretary of Delegation, Office of the U. S. Representative to Unesco.

Uruguay

H. Exc. Dr. Rémo Botto, Ambassador, Permanent Delegate to Unesco.

Yugoslavia

H. Exc. M. Dušan Popovski, Ambassador, Permanent Delegate to Unesco.
Mr. Aleksandar Jelić, Director, Department of Legal Affairs of the State Secretary of Foreign Affairs.

(b) International Intergovernmental Organizations**International Institute for the Unification of Private Law (UNIDROIT)**

Mr. Henri Deshois, Professor, Faculty of Law, University of Paris.

International Labour Office (ILO)

Mr. E. Thompson, Chief, Non-Manual Workers' Section, General Conditions of Work Branch.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

Mr. H. Saba, Assistant Director-General for International Standards and Legal Division.
Miss M.-C. Dock, Head, Copyright Division.
Mr. Y. Matveev, Legal Assistant, Copyright Division.

(c) International Non-Governmental Organizations**European Broadcasting Union (EBU)**

Dr. Georges Straschnov, Director, Department of Legal Affairs.

International Confederation of Societies of Authors and Composers (CISAC)

Mr. Léon Malaplate, Secretary-General.
Mr. Jean-Alexis Ziegler, Deputy Secretary-General.
Mr. Jean-Loup Tournier, Director-General of SACEM.

International Federation of Actors (FIA)

Mr. Rudolf Leuzinger, Secretary-General of FIM.

International Federation of Musicians (FIM)

Mr. Rudolf Leuzinger, Secretary-General.

International Federation of the Phonographic Industry (IFPI)

Mr. Michel Curtil, French Legal Adviser to the IFPI.
Mrs. Michèle Lazare, Permanent Delegate of IFPI to Unesco.

International Federation of Translators (FIT)

Mr. Pierre-François Caille, President.
Mr. Pierre Malinverni, President of the Copyright Committee.

International Federation of Variety Artists (FIAV)

Mr. Rudolf Leuzinger, Secretary-General of FIM.

International Literary and Artistic Association (ALAI)

Mr. Marcel Boutet, President.
Mr. Henri Deshois, Professor, Faculty of Law, University of Paris, Permanent Secretary.

International Publishers Association (IPA)

Mr. Hjalmar Pehrsson, Secretary-General.
Mr. André Geranton, Legal Adviser, French National Publishers Association.

International Writers' Guild (IWG)

Mr. Roger Fernay, President, International Copyright Commission.

Internationale Gesellschaft für Urheberrecht (INTERGU)

Professor Dr. Johannes Overath, Member of the Executive Board.
Mr. Robert Talon, Delegate for France.

Union of National Radio and Television Organizations of Africa (URTNA)

Mr. Mohammed el Bassiouni, Secretary-General.

(d) Representatives of National Non-Governmental Organizations**American Book Publishers Council**

Mr. Leo N. Alhert, Chairman, Joint International Copyright Task Force.
Mr. Dan Lacy, Vice-Chairman, Copyright Committee.

American Educational Publishers Institute

Mr. Leo N. Alhert, Chairman, Joint International Task Force of the American Book Publishers Council.
Mr. Dan Lacy, Vice-Chairman, Copyright Committee of the American Book Publishers Council.
Mrs. Bella L. Linden, Attorney.

Canadian Copyright Institute

Mr. Roy C. Sharp, Executive Director.

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

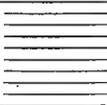
Professor G. H. C. Bodenhausen, Director.
Dr. Arpad Bogsch, Deputy Director.
Mr. Claude Masouyé, Senior Counsellor in charge of External Relations, Head a. i. of Copyright Division.
Mr. Robert Hadl, Legal Assistant, Copyright Division.

IV. Officers of the Permanent Committee

Chairman: Mr. Jorge Carlos Riheiro (Brazil).
Secretary: Mr. Claude Masouyé (BIRPI).



GENERAL STUDIES

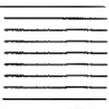


Current Developments in Wire Television: Copyright and Neighboring Rights Problems

Franca KLAVER
Professor at the Professional Centre
of Journalists of Utrecht



CORRESPONDENCE



Letter from Israel

“Compulsory licence records”

INTERNATIONAL ACTIVITIES

Extraordinary Session of the Intergovernmental Copyright Committee (Unesco)

(Paris, February 3 to 7, 1969)

Report on the meetings of the Intergovernmental Committee held on its own

1. The Intergovernmental Copyright Committee established under Article XI of the Universal Convention met in extraordinary session at Unesco Headquarters in Paris from February 3 to 7, 1969.

2. The twelve Member States of the Intergovernmental Copyright Committee were represented: Brazil, France, Federal Republic of Germany, India, Italy, Japan, Kenya, Mexico, Spain, Switzerland, United Kingdom, United States of America.

3. The following States, parties to the Universal Convention or members of the United Nations or Unesco, were represented by observers: Afghanistan, Algeria, Andorra, Argentina, Austria, Belgium, Canada, Ceylon, Chile, Costa Rica, Czechoslovakia, Denmark, Finland, Guatemala, the Holy See, Ireland, Israel, Laos, Madagascar, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Peru, Philippines, Portugal, Rumania, Senegal, Sweden, Thailand, Tunisia, Turkey, Uruguay, Yugoslavia.

4. Representatives of three intergovernmental organizations, twelve international non-governmental organizations and three national non-governmental organizations took part in the meeting as observers.

5. The list of participants is annexed to the present report¹.

6. Mr. Ribeiro (Brazil), Acting Chairman of the Intergovernmental Copyright Committee, declared the session open and expressed his most cordial wishes for the success of its work.

7. Mr. Saba (Assistant Director-General for International Standards and Legal Affairs, Unesco) extended a warm welcome to all members and observers on behalf of the Director-General, Mr. René Maheu. He noted that the current session of the Intergovernmental Committee was of special importance, since it was the first time that the Committee had been called upon to carry out the responsibilities delegated to it under the Universal Convention in regard to the revision of that instrument.

8. He emphasized the complexity of the present situation of international copyright, pointing out that a major cause was that the use of works of the mind played an essential part in development.

9. In conclusion, Mr. Saba remarked that the results of the meeting would undoubtedly have an influence on the future development of international copyright.

10. Professor Bodenhausen (Director of the United International Bureaux for the Protection of Intellectual Property, BIRPI) expressed his pleasure at being present in an advisory capacity at the meetings of the Intergovernmental Committee, in accordance with the provisions of the Universal Convention. He thanked the Director-General of Unesco and his staff for their kind welcome.

1. Composition of the Bureau pending the next regular session of the Intergovernmental Committee

11. The Committee took note of the resignation of its Chairman, H. E. Mr. Cippico, who had been called upon to take up other duties (document IGC/XR/4).

12. Following statements by the representatives of Argentina, Italy, Mexico, Spain, United Kingdom and United States of America, Mr. Ribeiro, Acting Chairman of the Committee, was elected Chairman.

13. Mr. Ribeiro paid tribute to the masterly skill and efficiency with which H. E. Mr. Cippico had presided over the Committee.

14. H. E. Mr. Charpentier (France) joined in the tribute paid to H. E. Mr. Cippico, and welcomed Mr. Ribeiro as Chairman for the current session.

2. Adoption of the final agenda

15. The Intergovernmental Committee adopted the following item for its agenda: "Communication from the Director-General of Unesco concerning comments from States parties to the Universal Copyright Convention with regard to the revision of Article XVII of the Convention".

3. Revision of the Universal Copyright Convention

16. The Secretariat of the Committee presented the report on this subject (document IGC/XR/2) containing comments by thirty-one States parties to the Universal Convention, regarding the desirability of revising Article XVII of the Convention in the light of the consultation carried out by the Director-General of Unesco in pursuance of resolution 5.122 adopted by the General Conference at its fourteenth session.

17. Professor Bodenhausen (Director of the United International Bureaux for the Protection of Intellectual Property, BIRPI) raised two interlocutory questions:

¹ See above, p. 53, the list of participants of the Permanent Committee of the Berne Union. The persons mentioned in this list are the same as the participants of the Intergovernmental Copyright Committee, subject, as regards the States concerned, to the membership of both Committees.

- (i) the definition of the respective spheres of competence of the General Conference of Unesco and the Intergovernmental Copyright Committee. He pointed out that the Intergovernmental Committee was not a Unesco body and should proceed independently in its study of the question of revising the Universal Convention;
- (ii) the legal validity of the requests for revision made by at least ten States parties to the Convention. In that connexion he drew the Committee's attention to the provisions of Article XII of the Universal Convention whereby the convening of a conference for revision might be either mandatory, if requested by at least ten States or, failing ten requests, left to the discretion of the Committee.

18. The representative of India observed that there was no set formula for presenting requests for revisions and that the inference undoubtedly was that replies in favour of convening a conference for revision were legally valid requests.

19. The observer from Argentina, while agreeing with the representative of India that there was no set formula for requests for revision of the Universal Copyright Convention, expressed the view that the legal validity of the replies forwarded to the Director-General of Unesco should be examined.

20. The representative of Spain considered that the questions raised by the Director of BIRPI were fundamental. He explained that the Government of Spain, for its part, was in favour of convening a revision conference but was not making a formal request to that effect.

21. The observers from Czechoslovakia, Kenya, Monaco, Nigeria, Peru and Yugoslavia informed the Committee that their governments were formally requesting that a revision conference be convened.

22. The observer from Chile stated that his government not only agreed with the proposed revision of the Universal Convention but was expressly requesting that revision.

23. The representative of France, for his part, thought that the Intergovernmental Committee should take into account the unanimous stand of the General Conference of Unesco in favour of the revision of Article XVII of the Universal Convention. The stand taken by the Conference carried sufficient weight for the Committee to regard the convening of a revision conference as a necessity.

24. The representative of the United States of America endorsed the statement of the Director of BIRPI concerning the respective spheres of competence of the General Conference of Unesco and the Intergovernmental Copyright Committee.

25. He further suggested that a working group be set up to examine the legal validity of the requests for revision of the Universal Convention.

26. The representative of the Federal Republic of Germany seconded the suggestion made by the representative of the United States of America.

27. The representative of Italy said that the Intergovernmental Committee was not competent to interpret the comments made by the States parties to the Convention. He ap-

proved of the idea of setting up a working group to examine the replies received by the Director-General of Unesco. He suggested that should any doubt remain as to the legal validity of the replies sent by the governments, the Unesco Secretariat should consult the various governments concerned to ascertain whether or not they requested the convening of a revision conference.

28. The representative of the United Kingdom, while not against the establishment of a working group to examine the replies made by States parties to the Universal Convention, wished to know whether the said group would be in a position to interpret such replies.

29. The observer from Ceylon, after recalling the antecedents of the matter before the Intergovernmental Committee, expressed the view that the comments made by the States parties to the Universal Convention constituted formal requests for revision.

30. The observer from Madagascar endorsed the view of the observer from Ceylon.

31. The observer from the Union of National Radio and Television Organizations of Africa reminded the meeting of the position of the African countries and emphasized that for those countries the revision of Article XVII of the Universal Convention was a matter of urgency.

32. The observer from Tunisia thanked the representative of France for having recalled that resolution 5.122 had been adopted unanimously by the General Conference of Unesco which implied that more than ten States were asking for the convening of a revision conference. He drew the Committee's attention to the difficulties of the developing countries, which might find themselves unable to remain parties to any conventional system for the protection of copyright for want of an appropriate solution.

33. At the close of this exchange of views, the Chairman of the Committee noted that there was almost a consensus in the Intergovernmental Committee that a conference should be convened to revise the Universal Convention. He further concluded that since no one had spoken against it, the Committee wished to convene a revision conference.

34. When the discussion was resumed, the representative of France expressed the view that it was important for developing States to be able to take advantage of the protection guaranteed by the Universal Convention. He recalled that the Committee had decided, at its previous session, to convene a revision conference. He considered that a subcommittee, set up under Rule 16 of the Rules of Procedure of the Intergovernmental Committee, might be entrusted with the preparations for the revision conference, whose terms of reference would be limited to the amendment of Article XVII and the Appendix Declaration relating thereto and would not extend to the clauses of substantive law.

35. The representative of the United States of America expressed satisfaction at the Committee's decision to revise the Universal Convention and mentioned that his delegation was submitting a resolution on the subject with a view to implementing that decision. In the resolution it was proposed,

in particular, that a sub-committee be set up in accordance with Rule 16 of the Intergovernmental Committee's Rules of Procedure to examine the following points:

- (1) Whether the suspension of the safeguard clause should be limited to the developing countries and, if so, how that term should be defined;
- (2) Whether the safeguard clause should be suspended indefinitely or for a specified period of time;
- (3) Whether a Berne Union member should be entitled to adjust the level of protection to that offered by a developing country under the suspension;
- (4) Whether any link between the Berne Union and the Universal Copyright Convention could or should be substituted for the safeguard clause;
- (5) The majority necessary at a revision conference to revise the Appendix Declaration.

36. The sub-committee so formed should meet before the Joint Study Group mentioned in resolution 59 (IX) of the Intergovernmental Committee, to which the results of its discussions might be transmitted.

37. The observer from Rumania expressed the view that resolution 59 (IX) of the Intergovernmental Committee should constitute the basis of the work that the Joint Study Group would have to accomplish.

38. The observer from Tunisia recalled that at the previous meeting of the Committee, general agreement had been reached on the desirability of convening a conference to revise the Universal Convention. He drew the Committee's attention to Articles XI and XII of the Convention, laying down the procedure for preparing for revision conferences, and giving the Intergovernmental Committee sole competence in the matter. He also referred to the terms of resolution 5.122 adopted by the General Conference of Unesco at its fifteenth session, authorizing the Director-General to take appropriate steps, firstly to enable the competent bodies to examine the possibility of revising Article XVII of the Universal Copyright Convention and secondly, to set up a joint study group to examine any other changes it might seem necessary to introduce into that instrument.

39. The representative of Kenya submitted a draft resolution proposing the convening of a conference to revise Article XVII of the Universal Convention and the setting up of a sub-committee appointed under Rule 16 of the Rules of Procedure of the Intergovernmental Committee, which would be responsible for preparing for the conference. While acknowledging that it was for the Committee to decide on the membership of the sub-committee, he proposed that it should consist of representatives of the following States: Brazil, France, India, Italy, United States of America.

40. The observer from Morocco referred to the unanimous vote on resolution 5.122 of the General Conference of Unesco and emphasized the importance to be accorded to it, in view of that fact that the Universal Convention had been drawn up and adopted under the auspices of Unesco. He added that as the revision of Article XVII of the Universal Convention would make it possible to prevent developing

countries from withdrawing from any system for the protection of copyright, it should be of service to the Berne Union and the Universal Convention alike.

41. The representative of India agreed with what had been said by the representative of Kenya and the observer from Tunisia.

42. The representative of the United Kingdom appreciated the reasons for modifying Article XVII and the Appendix Declaration relating thereto, but considered it necessary to proceed with caution and to examine that question in conjunction with all the other problems raised in connexion with international copyright.

43. The representative of Mexico seconded the remarks of the representative of the United Kingdom.

44. The representative of the United States of America reminded the Committee that the draft resolution prepared by his delegation took the needs of the developing countries into account.

45. The representative of Italy recalled that his government, when consulted by the Director-General of Unesco in compliance with resolution 5.122 of the General Conference, had stated in its reply that it was in favour of a revision limited exclusively to Article XVII and he explained that the reply should be interpreted as a formal request for revision within the meaning of Article XII of the Convention.

46. At the close of its deliberations, the Intergovernmental Committee set up a Drafting Committee comprising the following States: France, Federal Republic of Germany, India, Kenya, Mexico, United Kingdom, United States of America.

47. The Chairman of the Intergovernmental Committee, being a member *ex officio* of the Drafting Committee, was unanimously elected as its Chairman.

48. The Drafting Committee prepared a draft resolution which was adopted by the Intergovernmental Committee and which is annexed to the present report (Annex A).

49. The Committee having been informed that Tunisia's accession to the Universal Convention was imminent, decided on a proposal by France, supported by Senegal, that should the Convention have come into force for that State by the time of the meeting of the sub-committee appointed under Rule 16 of the Rules of Procedure of the Intergovernmental Committee, Tunisia would be authorized to attend the sub-committee meetings as an observer.

50. The representative of Italy inquired which Member States on the sub-committee had spoken in favour of revising Article XVII of the Universal Convention.

51. The Assistant Director-General for International Standards and Legal Affairs replied that of those States, India and Kenya had asked for the text to be revised.

52. The representative of France stated that his government also was in favour of revision.

53. Resolution 1 (XR) was unanimously adopted.

4. Other business

54. The other items on the Agenda of the Intergovernmental Committee were discussed at a joint meeting with the Permanent Committee of the Berne Union².

ANNEX A

Resolution No. I (XR)

Considering the requests of a number of countries party to the Universal Copyright Convention to convene a conference for revision of the Convention;

Taking note of the fact that these requests were prompted by proposals for changes in the provisions of the Universal Copyright Convention with respect to its relationship to the Berne Convention for the Protection of Literary and Artistic Works;

Recognizing its duty, under Article XI of the Universal Copyright Convention, to make careful and thorough preparations for any revision conference;

Decides to convene a conference for revision of Article XVII of the Universal Copyright Convention and of the Appendix Declaration relating thereto,

Establishes, in accordance with Rule 16 of its Rules of Procedure, a sub-committee to examine the issues raised by the proposals for the revision of Article XVII and its Appendix Declaration. The sub-committee is composed of the following members: France, Federal Republic of Germany, India, Kenya, Mexico, United States of America; the Chairman of the Intergovernmental Copyright Committee is *ex officio* member of the sub-committee; the Director-General of the United Nations Educational, Scientific and Cultural Organization and the Director of the United International Bureaux for the Protection of Intellectual Property may attend meetings of the sub-committee in an advisory capacity; Czechoslovakia and two States members of the Permanent Committee of the Berne Union designated by the latter attend the meetings of the sub-committee as observers,

Express the wish that the following be included among the issues considered by the sub-committee:

- (1) whether the suspension of the safeguard clause should be limited to developing countries and, if so, how that term should be defined;
- (2) whether the safeguard clause should be suspended indefinitely or for a specified period of time;
- (3) whether a Berne Union member should be entitled to adjust the level of protection to that offered by a developing country under the suspension;
- (4) whether any link between the Berne Union and the Universal Copyright Convention could or should be substituted for the safeguard clause; and
- (5) the majority necessary at a revision conference to revise the Universal Copyright Convention and particularly its Article XVII and the Appendix Declaration relating thereto;

Requests that the sub-committee submit its report to the Intergovernmental Committee at the time of its next regular session and recommends that it communicate, as a matter of information, its report to the Joint Study Group established under resolution No. 2 (XR),

Decides that the Intergovernmental Copyright Committee, at its next regular session, shall fix the date for the meeting of the conference for revision of Article XVII of the Universal Copyright Convention and of the Appendix Declaration relating thereto and shall proceed with preparations for that conference, taking into consideration the results of the sub-committee established hereunder.

The documentation prepared by the Secretariat to be submitted to the next regular session of the Intergovernmental Copyright Committee shall include a report of the work accomplished at that time by the Joint Study Group envisaged under resolution 59 (IX) of the Intergovernmental Copyright Committee;

Instructs the Chairman of the Intergovernmental Copyright Committee, in consultation with the Director-General of Unesco, to convene the sub-committee thus constituted.

² See above, p. 50, the second part of the Report of the Permanent Committee of the Berne Union.

