

# Copyright

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# WORLD INTELLECTUAL PROPERTY ORGANIZATION

## BULGARIA

### 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 People's Republic of Bulgaria deposited on February 19, 1970, its instrument of ratification dated January 26, 1970, of the Convention Establishing the World Intellectual Property Organization (WIPO), with the following declaration:

"The People's Republic of Bulgaria considers it necessary to stress that the text of Article 5 of the Convention is of a discriminatory nature in that it excludes, for a certain number of States, the possibility of participating in it. The Article is in flagrant contradiction with the nature of the World Intellectual Property Organization, the purpose of which is to unite the efforts of all States for the protection of intellectual

property and for the regulation of problems in this field which are of concern to all countries.

The People's Republic of Bulgaria therefore feels that adhesion to conventions of this type should be open, without restriction, to all States, in conformity with the principle of the sovereign equality of States." *(Translation)*

The People's Republic of Bulgaria 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.

Pursuant to Article 15(2), the Convention Establishing the World Intellectual Property Organization (WIPO) will enter into force, in respect to the People's Republic of Bulgaria, three months after the date of the deposit of the instrument of ratification, that is, on May 19, 1970.

Geneva, February 27, 1970.

WIPO Notification No. 18

# INTERNATIONAL UNION

## Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

### Second Session

(Paris, December 10 to 12, 1969)

### Report

#### Introduction

1. In accordance with the provision contained in Article 32(6) of the Rome Convention, the Intergovernmental Committee held its second ordinary session at the Unesco Headquarters at Paris, from December 10 to 12, 1969.

2. The following Governments, members of the Committee, were represented: Czechoslovakia, Ecuador, Mexico, Sweden and the United Kingdom. From among the States parties to the Convention, but not members of the Committee, the Governments of Brazil, Denmark, Federal Republic of Germany and Niger were represented by observers. The following States not parties to the Convention were also represented by observers at this session: France, Iceland, Italy and the United States of America.

3. The representatives of the following intergovernmental and non-governmental organizations attended the session as observers: League of Arab States, Asian Broadcasting Union (ABU), European Broadcasting Union (EBU), International Confederation of Professional and Intellectual Workers (CITI), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Actors (FIA), International Federation of Musicians (FIM), International Federation of the Phonographic Industry (IFPI), Internationale Gesellschaft für Urheberrecht (INTERGU), International Literary and Artistic Association (ALAI), International Music Council (CIM), International Secretariat of Entertainment Trade Unions (ISETU), International Union of Cinematograph Exhibitors (UIEC), and International Union of National Organizations of Hotel, Restaurant and Café Keepers (HoReCa).

4. The list of participants has been attached to the present report.

#### Opening of the session

5. The second session of the Intergovernmental Committee was opened by its Chairman, Mr. William Wallace (United Kingdom).

#### Address by the representative of the Director-General of Unesco

6. Mr. H. Saba, Assistant Director-General for International Standards and Legal Affairs (Unesco), welcomed the representatives of the Governments, members of the Committee, the representatives of intergovernmental organizations and the observers of States and non-governmental organizations on behalf of the Directors-General of the United Nations Educational, Scientific and Cultural Organization, the International Labour Office and the Director of the United International Bureaux for the Protection of Intellectual Property. Mr. Saba also referred to the problems of illiteracy and lack of access to cultural and scientific materials generally and further stressed the rôle that new technology can play in overcoming such problems on a world-wide scale. He referred specifically to the rôle that satellites can play in this connection.

7. After the address of the representative of the Director-General of Unesco, the Chairman, Mr. William Wallace (United Kingdom), observed in his opening statement that, before the agenda is taken up, he would like to draw the attention of the members of the Committee to the provisions contained in Articles 3 and 15(1) of the Committee's Rules of Procedure. He suggested that Article 3(2) should be interpreted as follows:

“The Chairman and the Vice-Chairman shall remain in office [whether or not their countries are members of the Committee] until their respective successors are elected at the beginning of the following session . . .”.

Further, that the second sentence of Article 15(1) should be considered as deleted.

And that Article 16(1) should read as:

“New elections shall be held after each [the word “each” to be added and the phrase “the second” to be deleted] ordinary session . . .”.

8. The Committee decided to interpret the rules in the manner suggested by the Chairman, Mr. William Wallace (United Kingdom).

9. This being an interim measure it was decided that the question of formal amendments to the Committee's Rules of Procedure should be included in the agenda of the next session of the Committee.

#### Election of officers

10. The Committee elected the following officers: Chairman, Mr. Torwald Hesser (Sweden); and Vice-Chairman, Mr. González Cosío (Mexico).

#### Adoption of the agenda

11. At the suggestion of the Chairman, Mr. Torwald Hesser (Sweden), the Committee adopted the agenda for the session contained in document ILO/UNESCO/BIRPI/ICR.2/1.

#### Application of the Convention

12. Mr. B. Knapp, representative of the Director-General of the International Labour Office (ILO), introduced the report on this question contained in document ILO/UNESCO/BIRPI/ICR.2/2. Thereafter the Chairman invited the members of the Committee to comment on the report in question.

13. The delegate of Czechoslovakia made an oral statement concerning the protection of the performing artists, broadcasting organizations and the phonographic industry under the Czechoslovak legislation. The delegate also pointed out that this statement was in reply to the Secretariat's circular letter dated February 28, 1969 — a copy of this statement shall be reproduced in full and circulated along with the Final Report.

14. The delegate of Denmark referred to the difficulties which hindered the implementation of Article 12 of the Convention and explained how these difficulties could be overcome. He referred to the rôle of the Danish organization GRAMEX in the protection of the rights of performers and the producers of phonograms and pointed out that certain interested international organizations have already found a solution regarding the question of distribution of revenues which cannot be distributed to the individual right-owners. Finally, he observed that he did not think that the Convention laid any great economic burdens on the countries ratifying the Convention or acceding to it.

15. The delegate of the United Kingdom suggested that a copy of the statement of the delegate of Denmark should be made available to the members of the Committee. At the suggestion of the Chairman, the delegate of Denmark stated that he shall send a copy of his statement later on to the Secretariat for circulation.

16. The Committee heard various statements from the observers representing the European Broadcasting Union (EBU), the International Federation of Actors (IFA) and the International Federation of Musicians (FIM). The representative of EBU mainly emphasized that the criteria used in the provisions of the Rome Convention were very complex and that they could not be applied on a world scale. The representatives of IFA and FIM emphasized the usefulness of the provisions of the Rome Convention. The representative of

FIM drew the attention of the Committee to the fact that legal experts could help the developing countries to accede to or ratify the Rome Convention.

17. The Chairman, speaking as the representative of Sweden, referred to the statement of the delegate of Denmark and gave support to his idea (the Danish delegate had referred specifically to the "London principles") and stated that its application would not cause any burden on the countries adopting it. Referring to the question of legal difficulties in the implementation of or accessions to the Rome Convention, he wondered if the Secretariat could prepare a "draft model law" on the question.

18. Mr. H. Saba, representative of the Director-General of Unesco, pointed out that during 1970-1971 the Secretariats are heavily committed to several tasks, including the tasks relating to the revision of the Universal Copyright Convention and the Berne Convention. However, he suggested that consultation on this question should be continued in the meanwhile and hoped that necessary funds would be available in 1971 for the preparation of studies on this question, a view which was shared by the representatives of the International Labour Office (ILO) and the United International Bureaux for the Protection of Intellectual Property (BIRPI).

19. The delegate of the United Kingdom pointed out that the main advantage of the model law would be to demonstrate that the Rome Convention is not a complex instrument and that in principle he was not against the drafting of a "model law" on the subject.

20. The representative of the International Confederation of Professional and Intellectual Workers (CITI) stated that the developing countries were interested not only in the protection of the rights of authors but also in protecting the rights of performing artists as this was one of the important measures in the development of their culture.

21. The observer from the Federal Republic of Germany agreed that the idea of "model law" was a good one but that, in view of the difficulties of the Secretariats, this point should not be pressed at this stage.

22. The Chairman summed up the discussion on this question by stating that this inquiry should be continued and those States who had not answered the circular letter should be asked again to send their reports and that this question should be taken up again at the next session.

23. The representative of the International Union of National Organizations of Hotel, Restaurant and Café Keepers (HoReCa) emphasized that heavy charges on music might cause the hotels, restaurants and cafés to cease to provide music as an additional service to their patrons.

Replies received from the Governments of the States parties to the Universal Copyright Convention or members of the Berne Union concerning the possibility of acceding to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

24. Mr. H. Saba, Assistant Director-General for International Standards and Legal Affairs (Unesco), introduced the

report on this question, contained in document ILO/UNESCO/BIRPI/ICR.2/3 and Addenda 1 and 2.

25. In the discussion that followed on this question, the representatives of the European Broadcasting Union (EBU) and the International Federation of Musicians (FIM) presented their views for and against the point concerning difficulties regarding accession to the Convention.

**Radio and television broadcasts via communication satellites and the question of the protection of the rights of performers, producers of phonograms and broadcasting organizations**

26. The reports on this question were introduced by Mr. C. Masouyé, representative of the Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI). After recalling the deliberations of the Working Group convened by BIRPI in 1968, he mentioned the conclusions reached by the Meeting of Governmental Experts on International Arrangements in the Space Communication Field, held at Unesco House from December 2 to 9, 1969, and their relevance to the agenda item under discussion.

27. Thereafter the representative of EBU made a detailed expository statement concerning the technical, economic and legal aspects of the question of transmissions of signals and broadcasts via satellites and referred briefly to the likely development of "satellite communication" in the coming 10 to 15 years. He also drew the attention of the Committee to the various instruments through which the problems concerning transmissions via satellites could be tackled or the rights of broadcasting organizations safeguarded. Finally he emphasized the importance of the question of legal protection in the domain of broadcasting and the urgent need of appropriate regulation in the interests of all concerned; otherwise there was a risk of transmissions via satellites, however vital, becoming less frequent, if it was impossible for the originating entity to control the geographical area of their use. That situation would still remain with the advent of direct broadcasting satellites, which would not cause the disappearance of distribution satellites and for which control of the area of reception would also be required.

28. In the discussion that followed on this question, the delegate of the United Kingdom stated that he believed that broadcasters should be able to control their broadcasts and pointed out that this was in the interest of everyone. He also pointed out that, if the time comes when the satellites are only direct broadcasting satellites, no international convention will be able to meet the situation; that the existing wording of the Rome Convention protects "broadcasts" which includes broadcasts by means of satellites, and suggested that more countries should join the Convention. The observer from the Federal Republic of Germany supported the statement of the delegate of the United Kingdom and further expressed the view that if any other solution is adopted it should not compete with the provisions of the Rome Convention.

29. The delegate of Czechoslovakia, while reserving the position of his country on this question, stated that Article 3 of the Rome Convention is applicable to the transmissions via

satellites. Following this point further he stated that if this interpretation is not regarded adequate then he would be in favour of the revision of Article 3 of the Rome Convention.

30. The delegate of Sweden expressed the view that satellite transmissions, in so far as they are ultimately intended for the public, fall within the notion of "broadcast" in the sense of the Rome Convention. However, referring to paragraph 33 of the Report of the Working Group of the Meeting of Governmental Experts (COM/SPACE/9, page 7), he stated that, while Sweden believed that the regulation of the problem was legally possible and adequate within the framework of the Rome Convention, he could not overlook the possibility, because a considerable number of countries are now in favour of other solutions, that Sweden may in the future support other solutions which may be proposed.

31. The representative of the International Federation of the Phonographic Industry (IFPI), while recognizing the necessity of protection of transmissions via satellites, expressed doubts concerning the efficiency of a special convention and stated that he was convinced that the interests of each of the three groups mentioned in the Rome Convention can be protected under that convention; that in any event these interests ought to be respected; and that accessions to any future convention on this question should be made subject to ratification of or accession to the Rome Convention.

32. The representative of EBU stressed the point that the provisions of the Rome Convention did not adequately cover transmissions via satellites, especially as in many cases the signals transmitted by satellites did not constitute ready-made broadcasts but only the raw materials for them.

33. The representative of FIM stated that while broadcasters of programmes via satellites should no doubt be protected against the abuse of their programmes the rights of the performing artists should also be adequately protected.

34. In summing up, the Chairman stated that the discussion had shown that there could be no unanimous opinion on this question and therefore the different interventions should be summarized in the report so that the governments should be able to see what was said in the Committee on the points raised.

**Renewal of the Intergovernmental Committee**

35. Mr. H. Saba, Assistant Director-General for International Standards and Legal Affairs (Unesco), introduced a report on this question, contained in document ILO/UNESCO/BIRPI/ICR.2/5.

36. At the suggestion of the Chairman, the Committee decided to follow the procedure outlined in the report of the Secretariat, introduced by Mr. Saba and referred to above.

37. The Committee also decided that the elections should take place after the present session and that a special report be prepared concerning the result of the elections.

**Miscellaneous**

38. There was no debate or discussion on this item.

### Adoption of the report and closing of the session

39. In pursuance of the provision contained in Article 13 of the Committee's Rules of Procedure, the present report was drawn up by the Secretariat and submitted to the Committee for approval at the last sitting of the session.

40. The Committee took note of the report (ILO/UNESCO/BIRPI/CONF.2/1) concerning the elections for the renewal of the Committee. The elections were held on December 10, 1969, at a separate meeting of the States parties to the Convention.

41. The Committee concluded its second ordinary session on December 12, 1969, after adopting the present report.

## ANNEX

### List of Participants

#### I. Members of the Committee

##### Czechoslovakia

Mr. Milan Reiniš, Legal Counsellor, Ministry of Culture of the Czech Socialist Republic  
Mr. Oldřich Fahián, Ministry of Foreign Affairs

##### Ecuador

H. E. Mr. Gonzalo Escudero, Amhassador, Permanent Delegate of Ecuador to Unesco

##### Mexico

Lic. Prof. Arturo González Cosío, Director General de Derecho de Autor, Secretaría de Educación Pública  
Sr. Edmundo González Llaca, Dirección General de Derecho de Autor, Secretaría de Educación Pública  
Prof. Carlos Gomez Barrera, Director General, Sociedad de Autores y Compositores de Música  
Sta. Consuelo Velasquez, Presidente, Sociedad de Autores y Compositores de Música  
M. Adolfo Hill Loreda, Asesor Jurídico, Asociación Nacional de Intérpretes  
M. José Luis Cahallero Cárdenas, Presidente, Asociación Nacional de Intérpretes

##### Sweden

Mr. Torwald Hesser, Justice of the Supreme Court  
Mr. H. Danielus, Assistant Justice of Appeal, Ministry of Justice

##### United Kingdom

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

#### II. Observers

##### (i) States parties to the Convention

##### Brazil

Mr. Francisco Alvim, Permanent Delegation of Brazil to Unesco

##### Denmark

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

##### Germany (Federal Republic)

Mrs. Elisabeth Steup, Ministerialrätin, Federal Ministry of Justice

##### Niger

Mr. Attahirou Kelessi, Deputy Permanent Delegate of Niger to Unesco

##### (ii) Observers from other States

##### France

Mr. Paul Nollet, Inspector General, Ministry for the Development of Industry and Science

##### Iceland

Mr. Knutur Hallsson, Chief of Division, Ministry of Culture and Education

##### Italy

Mr. Maurizio Meloui, Counsellor (First Class), Presidency of the Council of Ministers

##### United States of America

Miss Barbara Ringer, Assistant Register of Copyrights, Library of Congress  
Mr. Robert Hadl, Legal Adviser, Copyright Office

##### (iii) International Organizations

##### (a) Representatives of Intergovernmental Organizations

##### League of Arab States

Mr. Melhem Ayache, Permanent Delegation to Unesco  
Mr. S. Afifi, Permanent Delegation to Unesco

##### (b) Representatives of International Non-Governmental Organizations

##### Asian Broadcasting Union (ABU)

Sir Charles Moses, Secretary-General

##### European Broadcasting Union (EBU)

Mr. Georges Straschnov, Director, Department of Legal Affairs

##### International Confederation of Professional and Intellectual Workers (CITI)

Mr. J. Mourier, Vice-President  
Mr. R. Berquier, Secretary-General

##### International Confederation of Societies of Authors and Composers (CISAC)

Mr. Jean-Alexis Ziegler, Deputy Secretary-General

##### International Federation of Actors (IFA)

Mr. Rolf Rembe, Acting General Secretary

##### International Federation of Musicians (FIM)

Mr. Rudolf Leuzinger, Secretary-General

##### International Federation of the Phonographic Industry (IFPI)

Mr. S. M. Stewart, Director-General  
Mr. A. Sterling, Deputy Director-General  
Mr. Maurice Lenohle, Delegate-General

##### Internationale Gesellschaft für Urheberrecht (INTERGU)

Mr. Robert Talon, Delegate for France

##### International Literary and Artistic Association (ALAI)

Miss R. V. Blaustein, Member of the Board of the Association

##### International Music Council (IMC)

Mr. Rudolf Lenzinger, Secretary-General of FIM  
Mr. Jack Bornoff, Executive Secretary

##### International Secretariat of Entertainment Trade Unions (ISETU)

Mr. Alan James Forrest, Director  
Mr. Jan Koelemeij, Executive Board Member

*International Union of Cinematograph Exhibitors (UIEC)*

Mr. Josef Handl, Legal Adviser

*International Union of National Associations of Hotel, Restaurant and Café Keepers (HoReCa)*

Mr. van der Elst, Secretary

**III. Secretariat***International Labour Office (ILO)*

Mr. Blaise Knapp, Office of the Legal Adviser

Mr. E. Thompson, Head, Non-Manual Workers' Section

Mrs. R. Cuvillier, Non-Manual Workers' Section

Mrs. M. Canova, Non-Manual Workers' Section

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

Mr. H. Saha, Assistant Director-General for International Standards and Legal Affairs

Mr. C. Lussier, Deputy Director, Office of International Standards and Legal Affairs

Mr. N. Singh, Legal Assistant, Copyright Division

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

Mr. Claude Masony , Senior Counsellor, Head, External and Public Relations Division

Mr. Vojt ch Strnad, Counsellor, Head, Copyright Division

**Meeting of Governmental Representatives for the Re-election of the Intergovernmental Committee  
of the International Convention for the Protection of Performers, Producers of Phonograms  
and Broadcasting Organizations**

(Paris, December 10, 1969)

**Report of the Tellers**

1. In accordance with the Rules of Procedure adopted by the Intergovernmental Committee at its first session, the Directors-General of the United Nations Educational, Scientific and Cultural Organization (Unesco) and the International Labour Office (ILO), and the Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI) convened a meeting of all the States parties to the Convention on December 10, 1969, in order to proceed to the "renewal of the Committee".

2. The representatives of the following contracting States were present and took part in the elections: Brazil, Czecho-

slovakia, Denmark, Ecuador, Federal Republic of Germany, Mexico, Niger, Sweden and the United Kingdom.

3. The election was conducted in accordance with the rules contained in Articles 16 and 17 of the Intergovernmental Committee's Rules of Procedure and the procedure outlined in document ILO/UNESCO/BIRPI/ICR.2/6.

4. The following States were elected:

Brazil	Federal Republic of Germany
United Kingdom	Denmark
Mexico	Niger

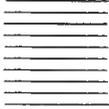
**C. LUSSIER**

Deputy Director

Office of International Standards  
and Legal AffairsUnited Nations Educational, Scientific  
and Cultural Organization (Unesco)**B. KNAPP**Office of the Legal Adviser  
International Labour Office  
(ILO)**V. STRNAD**

Counsellor

Head, Copyright Division  
United International Bureaux  
for the Protection of Intellectual Property  
(BIRPI)



*CORRESPONDENCE*



**Letter from Japan**













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Yoshio NOMURA  
Member of the Government Copyright Council

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mulate proposals with a view to solving the problems in question.

#### *Working paper*

9. The Working Party used as its working paper the document entitled "Legal protection of television broadcasts transmitted via satellite against their use without the permission of the originating organization" (COM/SPACE/4), written in a personal capacity by Mr. Georges Straschnov, Director of Legal Affairs of the European Broadcasting Union.

10. In submitting his paper, Mr. Straschnov explained that it dealt with the problems involved in preparing international arrangements for the protection of satellite television transmissions against uses not authorized by "the originating organization", that is, the organization which actually produced the signal or caused it to be produced.

11. Mr. Straschnov said that, in the circumstances existing prior to the use of telecommunication satellites, the broadcasting agencies could sign contracts with writers' societies or other categories concerned for broadcasts prepared for a geographical area clearly determined in advance. The advent of satellite transmissions had altered the whole picture by making it possible to use a programme over territories for which it was not intended, as once it reached the satellite it could be taken from there, without permission, by relaying organizations. It was consequently necessary to find means of precisely defining the areas of use.

12. Mr. Straschnov then examined the extent to which existing international treaties could provide the originating organizations with a guarantee against the unauthorized use of their programmes. The International Telecommunication Convention and the Radio Regulations could not, in his opinion, prevent an earth station from taking from a satellite programmes which were not intended for it, as those treaties made no provision for penalties against acts performed in breach of the obligations they laid down. Furthermore, neither the European Agreement on the Protection of Television Broadcasts nor the Rome Convention seemed capable of offering what must be world-wide protection, bearing in mind that the communication satellite system could cover the entire earth. Moreover, those treaties did not appear to provide adequate protection as far as the substance was concerned.

13. It would therefore be necessary to provide specific protection for the signal, on the basis of legal texts — the more so as in the case of regional satellites the number of programmes taken without permission might be still higher, since the number of earth stations able to use the signal transmitted by that type of satellite could be considerable in view of their low cost.

## II. Summary of the discussions

14. The Working Party discussed whether it was necessary to protect the originating organizations against unauthorized use of their signals, and came to the conclusion that the provision of such protection was not only necessary, but had at the present stage an urgency which merited particular attention. It was also emphasized that, if such protection were

to be effective, it must be universally applicable. Two delegations pointed out that the interests of the other categories, namely authors, performers and producers of phonograms, also ought not to be overlooked.

15. The Working Party also discussed possible means of ensuring protection of the signal. The European Agreement on the Protection of Television Broadcasts, the Rome Convention, the ITU Convention and Radio Regulations, the adoption of penalties and the establishment of a specific treaty were discussed in turn.

16. The European Agreement, concluded under the auspices of the Council of Europe, limits the possibilities of accession by excluding any non-European countries having no political ties with a member country of the Council of Europe. In consequence, it could not attain the desirable degree of universality.

17. So far as the Rome Convention was concerned, it was pointed out that that Convention — which in any case was open only to States parties to the Universal Copyright Convention or members of the International Union for the Protection of Literary and Artistic Works — had so far attracted only a few ratifications or accessions. Moreover, its implementation by a State necessitated complex national legislation, especially on account of its Article 7. It was also pointed out that ratification of the Convention or accession thereto might be difficult for certain States, including the developing countries — for which it might prove especially difficult — owing to the economic implications of the protection it afforded not only to broadcasting organizations but also to performers and producers of phonograms. For that reason, it might well be that the developing countries would have no particular interest in becoming parties to the Convention. On that point, it was urged that the obligations arising from the Rome Convention were relatively simple and that cases that might entail financial burdens always allowed for the possibility of options, owing to the system of reservations provided for in the Convention itself. It was pointed out, moreover, that Article 3(f) of the Rome Convention defined "broadcasting" as "the transmission by wireless means for public reception of sounds or of images and sounds". The EBU observer remarked that several specialists interpreted that definition as not covering the injection of the signal into the satellite circuit. Two experts stated that, in their opinion, the Rome Convention did cover such a case. They therefore considered that it was the instrument by which the desired protection could be secured, though the above-quoted definition might have to be amended so as to make it clearer. That being so, it might be thought desirable for the Convention to have a larger number of contracting parties.

18. Most of the experts, however, thought that the Rome Convention was not the appropriate instrument for providing the protection in question.

19. In the course of the discussion, reference was also made to the possibility of drafting provisions whereby States would undertake to apply penal measures to prevent any use of a satellite-transmitted signal that was not authorized by the originating organization. Such provisions could ensure

adequate protection if it should be considered by the majority of States that the Rome Convention was not the appropriate instrument. It was suggested that they would not necessarily entail the drafting of a new instrument, but could be included in the existing instruments of ITU.

20. The Working Party also considered the possibilities of drawing up a specific instrument to cover the particular case of the protection in question, and of finding the appropriate solution under the ITU's Convention and Radio Regulations.

21. In that connection, it was noted that the ITU provisions to be used for the purpose would be Article 35 of the International Telecommunication Convention, which provided that States Members of ITU must take all possible measures "with a view to ensuring the secrecy of international correspondence", and Article 17 of the Radio Regulations, which provided that administrations should take the necessary measures to prohibit and prevent the unauthorized interception of radiocommunications not intended for the general use of the public.

22. The experts noted that these clauses might prove inadequate, in view of the fact that they did not provide for any penalty to be applied to persons contravening the obligations they imposed. Consideration was therefore given to the possibility of including in the above-quoted texts an additional clause which would sanction their application by obliging States to treat as an offence the unauthorized use of the signal in question. As it had been represented that a solution to the problem was urgently required, and in view of the fact that a great many States were members of ITU, many experts considered that an amendment of the ITU provisions on the lines indicated might be the quickest and most effective solution in the absence of a special instrument. In view of the concern expressed by certain experts with regard to the protection of the other interests involved (authors, performers, producers of phonograms), it was suggested that the preparatory work for such revision should be carried out under the auspices of Unesco.

23. At this stage of the discussion, the ITU observer pointed out that it should be borne in mind that the protection contemplated related, on the one hand, to point-to-point satellite communications and, on the other, to the container — i. e. the radioelectric wave — and not to the content — i. e. the programme to be transmitted. He reminded the meeting that the relevant provisions, which he read out in full, were Article 35 of the International Telecommunication Convention and Article 17 of the Radio Regulations concerning the secrecy of international correspondence; the transmission of a television signal was covered by those provisions. He also mentioned that a technical organ of ITU, the International Radio Consultative Committee (CCIR) had gone into the question of the technical means for ensuring the secrecy of communications. With regard to revision of the ITU Convention, he pointed out that such a revision could be effected only by a Plenipotentiary Conference, to which a proposal for that purpose could be submitted by a member country at its next meeting, which was due to take place in 1972. It

should, however, be noted that, generally speaking, the Convention should contain only general principles, the details of which could be elaborated in the regulations or, failing that, in separate protocols. Referring to the suggestion that the preparatory work for a possible revision of the Convention should be carried out under the auspices of Unesco, he stressed that ITU had always been in favour of contacts between countries for the purpose of facilitating its work.

24. An expert drew attention to the fact that it seemed essential, before continuing discussion on that item, to consider the imperatives of ITU, which had always been concerned with the means and methods of transmitting signals but not with their content. Agreement would have to be reached on what was unlawful in that field, since ITU regarded as lawful whatever had been authorized by the Administration of the country in which the message was transmitted or received, whereas the present approach was to consider a transmission as lawful if it had been authorized by the originating body, i. e. a body not belonging to the Administration concerned. He wondered what organs of ITU would be competent to deal with the question. Every ITU Administrative Conference considered the items to be included in its agenda, and that particular item did not appear in the agenda for the 1971 Conference. Moreover, if the problem had to be laid before the Plenipotentiary Conference, a long time might elapse before a solution was found. He also doubted whether any attempt to regulate the reception and retransmission of television signals according to the intentions of the organization originating the programme would prove to be practicable.

25. In the light of the preceding comments, a large number of experts endorsed the idea that consideration should be given to the preparation of a specific instrument. In that connection, it was pointed out that an instrument of that kind would have the added advantage of allowing for the inclusion of fuller protection of signals, which would not only check their unlawful interception but might also prohibit secondary use of them, i. e. recording of the signal received.

26. An expert drew the Working Party's attention to the fact that in the case of a specific instrument there might be a tendency to include provisions other than those relating to the protection of signals. Another expert considered that a solution should be sought within the framework of the ITU Convention.

27. It was recalled that if a specific instrument were decided upon, the interests of other categories (authors, performers and producers of phonograms) should be taken into consideration. It was also pointed out that, in such an eventuality, it would be important to pay special attention to the needs of the developing countries. In addition, some experts believed that it would be premature, at the present stage, to exclude finally any of the solutions contemplated, particularly in view of the need to take into consideration not only the present situation but the development of techniques in future years.

28. In view of the urgent need to find a solution, Unesco and BIRPI were requested to consider the possibility of convening the Committee of Experts scheduled for 1970 fairly early in that year. The Working Party considered that ITU should be closely associated with the activities of Unesco and BIRPI in that sphere and in the work of the Committee of Experts in 1970. The Assistant Director-General for International Standards and Legal Affairs welcomed the opportunity given to Unesco to collaborate once more with ITU, and recalled that in the accomplishment of the tasks that lay ahead not only ITU but representatives of all the interests concerned would be called upon to cooperate.

29. The observer from BIRPI referred to the interest taken by his Organization in the problem of copyright and neighbouring rights in relation to satellite communication. In October 1968, BIRPI had convened a working group for a preliminary exchange of views on this matter. BIRPI was ready to collaborate with Unesco in the matter under consideration and he welcomed the fact that ITU was participating in the work of the two Organizations. He considered that ILO should also be associated in the work, since it had joint responsibility with Unesco and BIRPI in respect of the Rome Convention.

30. In the course of the debate, attention was drawn to the possibility of preparing a general agreement on the use of direct satellite broadcasting, which would cover not only the legal protection of television broadcasts transmitted by that means but also moral and ethical problems.

Two experts expressed the view that, if it were decided to adopt a specific instrument, due consideration would have to be given to protection both for the originating and the receiving parties, taking account of national sovereignty. During the debate in the Plenary Session, a number of experts agreed with this position.

Two experts underlined the fact that these two questions involving transmission and reception should be considered jointly. During the discussion in the Plenary Session, a number of experts supported this view.

### III. Conclusions

31. The Meeting recognized the necessity and urgency of providing effective legal protection against unauthorized use for broadcast signals transmitted by satellite. For that purpose three courses were envisaged: namely, the application of the Rome Convention, the amendment of the International Telecommunication Convention and the Radio Regulations, or the adoption of a specific instrument.

32. A number of experts also felt that an agreement which might be prepared for the use of satellites for educational,

scientific, cultural and informational purposes should likewise protect both the receiving entities and the public at large.

In the discussions, at the Plenary Session, this opinion was supported by many other experts, who stressed that, with the arrival of direct broadcasting, the necessity and urgency for such protection would become more acute. It was suggested by these experts that Unesco might initiate studies and also assist in the formulation of such an agreement. For that purpose, a number of speakers called on Unesco to convene a meeting to examine in depth the protection of receiving States, broadcasters and the general public with regard to satellite-transmitted programmes from abroad.

One speaker noted that an agreement protecting the rights of the users of satellite broadcasts was, in fact, different from the solutions envisaged for the legal protection of television signals, since such an agreement was largely a political matter. It was pointed out, furthermore, that this important general question was presently being examined by the United Nations Committee on the Peaceful Uses of Outer Space. Underlining the importance of protecting the rights of users, many speakers urged that Unesco should, for its part, pay careful attention to the needs of countries situated in zones covered by satellite transmissions, particularly the developing countries.

33. With regard to the application of the Rome Convention, it emerged from the discussions that that instrument did not seem to be an appropriate medium for ensuring worldwide protection.

34. Revision of the ITU Convention and Radio Regulations, or a possible additional protocol to that Convention, with a view to ensuring the necessary protection, seemed to the Meeting to be one of the ways of securing such protection within a reasonable time. If that course were adopted, the preparatory work should be actively carried out by ITU in collaboration with Unesco and the other organizations concerned.

35. The Meeting considered that the adoption of a specific instrument might prove to be an appropriate way of solving the problem. However, the choice between a separate agreement or the addition of new provisions to the ITU Convention should be the subject of further study.

36. At the end of the meeting, the Assistant Director-General for International Standards and Legal Affairs stressed the importance of the conclusions reached by the present meeting, for Unesco's future work in that field, and in particular for the Committee of Experts which Unesco and BIRPI were to convene in 1970.





## Meetings of Other International Organizations Concerned with Intellectual Property

- April 1 to 3, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group I (4<sup>th</sup> Session)
- April 6 to 10, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group III (1<sup>st</sup> Session)
- April 21 to 24, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — 3<sup>rd</sup> Session
- May 1 to 10, 1970 (Asunción) — 8<sup>th</sup> Interamerican Meeting on Copyright
- May 3 to 6, 1970 (Istanbul) — International League Against Unfair Competition (LICCD) — Symposium
- May 4 to 6, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group IV (1<sup>st</sup> Session)
- May 11 to 16, 1970 (Paris) — United Nations Educational, Scientific and Cultural Organization (Unesco) — Ad Hoc Preparatory Committee for the Revision of the Universal Copyright Convention
- June 22 to 27, 1970 (Las Palmas) — International Confederation of Societies of Authors and Composers (CISAC) — 27<sup>th</sup> Congress
- July 6 to 10, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group IV (2<sup>nd</sup> Session)
- September 9 to 11, 1970 (Luxembourg) — Intergovernmental Conference for the setting up of a European system for the grant of patents — Working Group I (5<sup>th</sup> Session)
- October 19 to 24, 1970 (Madrid) — International Association for the Protection of Industrial Property (IAPIP) — Executive Committee
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