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UNITED INTERNATIONAL BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY (BIRPI)

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Intellectual property Conference of Stockholm, 1967

- Vol.3 -

Documents S/200 - S/302
(English)

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BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION DE LA
PROPRIÉTÉ INTELLECTUELLE
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BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 25,1967 N° S/200
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INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

WORK SHEET ON S/4 FOR MAIN COMMITTEE IV

The attached document contains an updated version of Document S/4 (Madrid Agreement concerning the International Registration of Trademarks and Service Marks), which takes into account the decisions of Main Committee IV relating to the Administrative and Final Clauses of the ParisConvention (S/3).

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PROPOSED TEXT

MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF TRADEMARKS AND SERVICE MARKS[1]

ARTICLE 1

(1) [*No change is proposed.*]

(2)[2] Nationals of any of the contracting countries may, in all the other countries parties to this Agreement, secure protection for their marks applicable to goods or services, registered in the country of origin, by filing the said marks at the International Bureau **of Intellectual**[3] Property (**hereinafter designated as " the International Bureau")** referred to **in the Convention establishing the International Intellectual Property Organization (hereinafter designated as "the Organization"),**[4] through the intermediary of the Administration of the said country of origin.

(3) [*No change is proposed.*]

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[1] The words **"and Service Marks"** do not appear in the title of the Agreement as originally adopted or in any of its later, revised Acts.

[2] Words which do not appear in the Nice Act are printed in heavy type.

[3] The words **"of Intellectual"** used here replace the words ***"for the Protection of Industrial"*** used in the Nice Act.

[4] The words printed in heavy type do not appear in the Nice Act.

ARTICLE 2

[*No change is proposed.*]

ARTICLE 3

(1) [*No change is proposed.*]

(2) [*No change is proposed, except that if the title of the Nice Agreement is changed as proposed in document S/7, then the reference to that Agreement in this paragraph will have to be changed accordingly.*]

(3) [*No change is proposed.*]

(4) [*No change is proposed.*]

(5) In view of the publicity to be given in the contracting countries to registered marks, each Administration shall receive from the International Bureau a number of copies of the said publication[5] free, and a number of copies at a reduced price, in proportion to the number of units referred to in Article 13*quater*(4)(a)[6] of the Paris Convention for the Protection of Industrial Property, under the conditions set out in the Regulations. This publicity shall be considered in all contracting countries as fully sufficient, and no other publicity may be required of the applicant.

ARTICLE 3*bis*

(1) Any contracting country may, at any time, notify the Director General of the International Intellectual Property Organization (hereinafter designated as "the Director General")[7] in writing that the protection resulting from the international registration shall not extend to that country unless the proprietor of the mark expressly requests it.

(2) This notification shall not take effect until six months after the date of its communication by the Director General[8] to the other contracting countries.[9]

ARTICLE 3*ter*

[*No change is proposed.*]

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[5] The publication is the "periodical journal" referred to in the preceding paragraph, that is, the monthly review *Les Marques internationales* published by BIRPI.

[6] The words "referred to in Article 13*quater*(4)(a)" used here replace the words "*according to the provisions of Article 13(8)*" used in the Nice Act.

[7] The words "Director General of the International Intellectual Property Organization (hereinafter designated as 'the Director General')" used here replace the words "*Government of the Swiss Confederation*" used in the Nice Act.

[8] The words "Director General" used here replace the words "*Government of the Swiss Confederation*" used in the Nice Act.

[9] The text here proposed does not contain the following sentence which, in the Nice Act, constitutes the second sentence of paragraph (2) of Article 3*bis*: "*However, this period shall not apply in the case of countries which avail themselves, at the time of their ratification* [of the Nice Act] *or accession* [to the Nice Act] *of the faculty provided for in paragraph (1).*"

ARTICLE 4

[*No change is proposed.*]

ARTICLE 4*bis*

[*No change is proposed.*]

ARTICLE 5

[*No change is proposed.*]

ARTICLE 5*bis*

[*No change is proposed.*]

ARTICLE 5*ter*

[*No change is proposed.*]

ARTICLE 6

[*No change is proposed.*]

ARTICLE 7

(1) [*No change is proposed.*]

(2) [*No change is proposed.*]

(3) The first renewal effected **under the provisions of the Nice Act of June 15, 1957, or**[10] of this Act, shall include an indication of the classes of the International Classification to which the registration relates.

(4) [*No change is proposed.*]

(5) [*No change is proposed.*]

[10] The words **"under the provisions of the Nice Act of June 15, 1957, or"** used here replace the words *"after the entry into force"* used in the Nice Act.

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ARTICLE 8

(1) [*No change is proposed.*]

(2) Registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which will include:

(a) a basic fee[11];

(b) a supplementary fee[12] for each class of the International Classification, beyond three, in which the goods or services to which the mark is applied will be placed;

(c) a complementary fee[13] for any request for extension of protection in accordance with Article 3*ter*.

(3) [*No change is proposed.*]

(4) The annual returns from the various receipts from international registration, with the exception of those provided for under (b) and (c) of paragraph (2), shall be divided equally among the countries parties to this Act by the International Bureau, after deduction of the expenses and charges necessitated by the carrying out of the said Act. If, at the time this Act enters into force, a country has not yet ratified or acceded to this Act,[14] it shall be entitled, until the date of entry into force of its ratification or[15] accession, only to a share of the excess of receipts calculated on the basis of that earlier Act which is applicable to it.[16]

(5) The amounts derived from the supplementary fees provided for in paragraph (2)(b) shall be divided at the expiration of each year among the countries parties to this Act or the Nice Act of June 15, 1957,[17] in proportion to the number of marks for which protection has been applied for in each of them during that year, this number being affected, in the case of countries which make a preliminary examination, by a coefficient which shall be determined by the Regulations.

(6) [*No change is proposed.*]

[*Follows Article 8(7)*]

[11] In the Nice Act, the words "a basic fee" are followed by the words "*of 200 Swiss francs for the first mark, and of 150 Swiss francs for each additional mark filed at the same time as the first.*" It is proposed to omit the latter words.

[12] In the Nice Act, the words "a supplementary fee" are followed by the words "*of 25 Swiss francs.*" It is proposed to omit the latter words.

[13] In the Nice Act, the words "a complementary fee" are followed by the words "*of 25 Swiss francs per country.*" It is proposed to omit the latter words.

[14] The words "ratified or acceded to this Act" used here replace the words "*acceded either to the Hague Act or to the London Act*" used in the Nice Act.

[15] The words "ratification or" do not appear in the Nice Act.

[16] The words "that earlier Act which is applicable to it" used here replace the words "*the earlier Acts*" used in the Nice Act.

[17] The words "or the Nice Act of June 15, 1957" do not appear in the Nice Act.

[*Article 8, continued*]

(7) [*It is proposed that this paragraph be* **omitted.**]

(8) [*It is proposed that this paragraph be* **omitted.**]

(9) [*It is proposed that this paragraph be* **omitted.**]

ARTICLE 8*bis*

[*No change is proposed.*]

ARTICLE 9

[*No change is proposed.*]

ARTICLE 9*bis*

[*No change is proposed.*]

ARTICLE 9*ter*

[*No change is proposed.*]

ARTICLE 9*quater*

(1) If several countries of the Special Union agree to effect the unification of their domestic laws relating to marks, they may notify the **Director General**[18]:

(a) that a common Administration is substituted for the national Administration of each of them, and

(b) that the whole of their respective territories must be considered as a single country for the purposes of the application of all or part of this Agreement.

(2) This notification shall not take effect until six months after the date of its communication by the **Director General**[19] to the other contracting countries.

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[18] The words "Director General" used here replace the words "*Government of the Swiss Confederation*" used in the Nice Act.

[19] The words "Director General" used here replace the words "*Government of the Swiss Confederation*" used in the Nice Act.

ARTICLE 10 [ASSEMBLY][20]

(1)(a) The Special Union shall have an Assembly consisting of ~~[its]~~ countries which have ratified or acceded to this Act. ← those

(b) The Government of each country shall be represented by one or more delegates who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each Delegation shall be borne by the Government which has appointed it, except that the cost of travel and the subsistence allowance of one delegate for each member country shall be paid from the funds of the Special Union.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of its Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision;

(iii) modify the Regulations, including the fixation of the amounts of the fees referred to in Article 8(2);

(iv) determine the program and adopt the triennial budget of the Special Union and approve its final accounts;

(v) review and approve reports and activities of the Director General concerning the Special Union, and give ~~[instructions to]~~ him ~~[in such matters]~~ any necessary instructions concerning matters within the competence of the Special Union.

(vi) establish such committees as may be considered necessary for the work of the Special Union;

(vii) determine which countries outside the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(viii) adopt amendments to Articles 10 to 10*quater*;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) exercise such other functions as are allocated to it by this Agreement;

(2)(a)(ii): add "due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act.

(2)(a)(iv-bis): "adopt the financial regulations of the Special Union";

[*Follows Article 10(2)(b)*]

[Note: New item (xii) of Article 13(2)(a) (S/3) does not concern this Agreement.]

[20] Articles 10, 10*bis*, 10*ter*, and 10*quater*, here proposed replace Article 10 of the Nice Act, which reads as follows:

"*(1) The Administrations shall by common accord regulate the details for carrying out this Agreement.*

"*(2) There shall be established, at the International Bureau, a Committee of the Directors of the National Industrial Property Offices of the Special Union. It shall meet upon convocation by the Director of the International Bureau or at the request of five countries, parties to the Agreement, at intervals of not more than five years. It shall appoint from among its members a limited Council to which specified tasks may be assigned and which shall meet at least once a year.*

"*(3) The functions of this Committee are consultative.*

"*(4) However:*

(a) subject to the general jurisdiction of the High Supervisory Authority, it may, on the reasoned proposal of the Director of the International Bureau, and with the unanimous consent of the countries represented, change the amounts of the fees provided for in Article 8 of this Agreement;

(b) it shall establish and amend, with the unanimous consent of the countries represented, the Regulations of this Agreement;

(c) the Directors of the National Industrial Property Offices may delegate their powers to the representative of another country."

[*Article 10(2), continued*]

(b) ~~In exercising its functions with respect to matters which are of interest also to other Unions whose administrative tasks are entrusted to the Organization, the Assembly shall take into consideration the advice of the Coordination Committee of the Organization.~~

(3)(a) Each country member of the Assembly shall have one vote in the Assembly.

(b) One-~~third~~ half of the countries members of the Assembly shall constitute a quorum.

~~(c) Subject to the provisions of subparagraphs (d) and (e) and Article 10(2), the Assembly shall make its decisions by a simple majority of the votes cast.~~

~~(d) Decisions to admit to meetings as observers countries outside the Special Union, as well as intergovernmental and international non-governmental organizations, shall require at least two thirds of the votes cast.~~

~~(e) Any modification of the Regulations, including the fixation of the amounts of the fees referred to in Article 8(2), shall require at least two thirds of the votes cast.~~

~~(f) Abstentions shall not be considered as votes.~~

~~(g) Each delegate may represent, and vote in the name of, one country only.~~

(3)(c): "If less than one-~~third~~ half but at least one-third of the countries members of the Assembly are represented in any session, the decision of the Assembly shall be provisional. Any provisional decision shall be communicated in writing to each country member of the Assembly which was not represented in the session. The communication shall be accompanied by an invitation that such country pronounce itself within a period of four months from the date of the communication. If, within this period, together with the written pronouncements received by the International Bureau, the required quorum and majority are attained, the decision shall be final."

(3)(d): "Decisions of the Assembly shall require at least two-thirds of the votes cast."

(3)(e): "Abstentions shall not be considered as votes."

(2)(b): "In exercising its functions with respect to matters which are of interest also to other Unions within the meaning of Article 2 vii of the Convention establishing the Organization, the Assembly shall make a decision after having heard the advice of the Coordination Committee of the Organization."

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(f) Each delegation may represent, and vote in the name of, one country only (see S/35). However:

(i) Countries of the Special Union grouped together under the terms of an international agreement in a common Office possessing for each of them the character of a special national service of industrial property, as defined in Article 12 of the Paris Convention for the Protection of Industrial Property, may be jointly represented during discussions by one of their number;

(ii) in general, the countries of the Special Union referred to in item (i) must endeavor to send their own delegation to the sessions of the Assembly. If, however, for exceptional reasons a country cannot send its own delegation, it may give to the delegation of another country the power to vote in its name. This delegation of powers must be set out in a document signed by the Head of State, ~~or~~ the competent Minister.

(iii) each delegation may vote by proxy for one country only.

(g) Countries of the Special Union that are not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session, upon convocation by the Director General, ~~preferably~~ during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General, at the request of one-fourth of the countries ~~constituting~~ the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

⊢ in the absence of exceptional circumstances

⊢ members of

ARTICLE 10*bis* [INTERNATIONAL BUREAU][21]

(1)(a) The international registration and related duties, as well as all the other international administrative tasks with respect to the Special Union, shall be performed by the International Bureau.

(b) In particular, the International Bureau shall provide the secretariat of the Assembly and of such committees as may have been established by the Assembly.

(c) The Director General of the Organization shall be the chief administrative officer of the Special Union and shall represent the Union.

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(2) ~~The International Bureau~~ The Director General or persons designated by him shall participate, without the right to vote, in the meetings of the Assembly and of such committees as may have been established by the Assembly.

(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 10 to 10*quater*.

(b) The Director General or persons designated by him shall take part in the discussions at these conferences, but without the right to vote.

(4) The International Bureau shall carry out any other tasks assigned to it.

(3)(a-bis): "The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision."

[21] See footnote 20, above. This Article is intended also to replace Article 12(5) of the Nice Act, reading as follows: "*The International Bureau shall, in agreement with the countries concerned, provide for the administrative measures of adaptation which will be called for with a view to carrying out the provisions of this Agreement.*"

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ARTICLE 10*ter* [FINANCES][22]

(1)(a) The Special Union shall have a budget.

~~(b) The budget of the Special Union shall include the proper expenses of the Special Union itself and its share in the common expenses, as defined in the following subparagraph~~

~~(c) Expenses attributable not exclusively to the Special Union but also to one or more other Unions administered by the Organization, or also to the Organization as such, shall be considered as common expenses. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.~~

~~(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the various Unions administered by the Organization and with the budget of the Organization as such.~~

(1)(b): "The budget of the Special Union shall include the income and expenses proper to the Special Union ~~itself, its~~ contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization."

(1)(c): "Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special ~~Union in such common expenses~~ shall be in proportion to the interest the Special Union has in them."

(2): "The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization."

(3) The budget of the Special Union shall be financed from the following sources:

[*Follows Article 10ter(5)*]

(i) international registration fees and other fees and charges due for other services performed by the International Bureau in relation to the Special Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income.

(4)(a) The amounts of the fees referred to in Article 8(2) shall be proposed by the Director General and shall be fixed by the Assembly.

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(b) The amounts of such fees shall be so fixed that the revenues of the Special Union from fees and other sources shall be at least sufficient to cover the expenses of the International Bureau for maintaining the international registration service.

[*Article 10*ter, *continued*]

(4)bis : "If the budget is not adopted before the beginning of a new financial period, the budget of the previous year shall be carried over as provided in the Financial Regulations."

(5) The amount of other fees and of charges due for other services rendered by the International Bureau in relation to the Special Union shall be established by the Director General, who shall report on them to the Assembly.

~~(6)(a) The Special Union shall have a working capital fund which shall be constituted by payments made by the countries of the Special Union.~~

~~(b) The amount of the payment of each country shall be proportionate to its annual contribution as a party to the Paris Convention for the Protection of Industrial Property.~~

(6)(a): "The Special Union shall have a working capital fund which shall be constituted by a single payment made by each of the countries of the Special Union. If the fund is reduced to a reasonable level, an increase shall be decided by the Assembly."

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(6)(b): "The amount of the payment of each country to the fund or to an increase shall be a proportion of the contribution of that country as a party to the Paris Convention for the Protection of Industrial Property for the year in which the fund is established or the increase made."

(d) As long as the Assembly authorizes the use of part of the reserve fund of the Special Union as a working capital fund, the Assembly may suspend the application of subparagraphs (a), (b), and (c), above.

(7)(a) In the Headquarters Agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in the preceding subparagraph and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

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ARTICLE 10*quater*
[AMENDMENTS TO ARTICLES 10 TO 10*quater*][23]

(1) Proposals for the amendment of Articles 10, 10*bis*, 10*ter*, and the present Article, shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in the preceding paragraph shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided, however, that any amendment of Article 10, and of the present paragraph, shall require ~~the unanimity~~ of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force when written notifications of acceptance have been received by the Director General from three-fourths of the countries members of the Assembly at the time it has adopted the amendment. Amendments to the said Articles thus accepted shall bind all countries which are members of the Assembly at the time the amendment enters into force or which become members thereof at a subsequent date.

h may be initiated by any country member of the Assembly, or the Director General, and

— at least four-fifths

[23] See footnote 20, above.

ARTICLE 11 [RATIFICATION AND ACCESSION; ENTRY INTO FORCE; ACCESSION TO EARLIER ACTS; TERRITORIES]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.[24]

(2)(a) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of this Special Union.[25]

(b)[26] As soon as the International Bureau is informed that such[27] a country[28] has acceded to this Act[29] it shall address to the Administration of that country, in accordance with Article 3, a collective notification of the marks which, at that moment, enjoy international protection.

(c)[30] This notification shall, of itself, assure to the said marks the benefits of the foregoing provisions in the territory of such[31] country, and shall mark the commencement of the period of one year during which the Administration concerned may make the declaration referred to in Article 5.

(d)[32] However, any such[33] country when acceding to this Act[34] may declare that, except in the case of international marks which have already been the subject in that country of an earlier identical national registration still in force, and which shall be immediately recognized upon the request of the interested parties, the application of this Act shall be limited to marks registered from the date when its accession has entered into force.

(e)[35] Such a declaration shall dispense the International Bureau from making the collective notification referred to above. The International Bureau shall notify only the marks in respect of which it receives, within a period of one year from the accession of the new country, a request, with the

[Article 11(2)(e) continues]

[24] In the Nice Act, paragraph (1) deals with the accession of countries outside the Union. It is quoted in footnote 25, below. In the Nice Act, ratifications are dealt with in Article 12(1) which reads as follows: "*This Agreement shall be ratified and the ratifications shall be deposited at Paris as soon as possible.*"

[25] This subparagraph replaces paragraph (1) of the Nice Act which reads as follows: "*The countries of the Union for the Protection of Industrial Property which have not participated in this Agreement shall be permitted to accede to it at their request and in the form prescribed by Article 16 of the Paris Convention for the Protection of Industrial Property. This accession shall be valid only for the text of the Agreement last revised.*"

[26] In the Nice Act, this provision constitutes paragraph (2).

[27] The word "such" does not appear in the Nice Act.

[28] After this word ("country"), the following words appear in the Nice Act but are omitted here: "*or the whole or part of the countries or territories for the external relations of which it is responsible.*"

[29] The word "Act" used here replaces the word "*Agreement*" used in the Nice Act.

[30] In the Nice Act, this provision constitutes paragraph (3).

[31] The word "such" used here replaces the words "*the acceding*" used in the Nice Act.

[32] In the Nice Act, this provision constitutes paragraph (4).

[33] The word "such" does not appear in the Nice Act.

[34] The word "Act" here used replaces the word "*Agreement*" used in the Nice Act.

[35] In the Nice Act, this provision constitutes the first subparagraph of paragraph (5).

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[*Article 11(2)(e), continued*]

necessary particulars, for taking advantage of the exception referred to in the preceding sub[36]paragraph.

(f)[37] The International Bureau shall not make the collective notification to the said[38] countries, which, in acceding to this Act,[39] declare that they are availing themselves of the faculty provided for in Article 3*bis*. These countries may also declare at the same time that the application of this Act shall be limited to marks registered from the day on which their accessions enter into force; however, this limitation shall not affect international marks which have already been the subject of an earlier identical national registration in these countries, and which could give rise to requests for extension of protection made and notified in conformity with Article 3*ter* and Article 8(2)(c).

(g)[40] Registrations of marks which have been the subject of one of the notifications provided for in this paragraph[41] shall be regarded as replacing registrations directly effected in the new contracting country before the date of entry into force of its accession.[42]

(3) Instruments of ratification and accession shall be deposited with the Director General.[43]

(4)[44](a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force ~~one month~~ three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force ~~one month~~ three months after the date on which its ratification or accession has been notified by the Director General, unless the country has indicated a subsequent date in its instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

[*Follows Article 11(5)*]

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[36] The prefix "sub" does not appear in the Nice Act.

[37] In the Nice Act, this provision constitutes the second subparagraph of paragraph (5).

[38] The words "the said" do not appear in the Nice Act.

[39] The words "this Act" used here replace the words "*the Madrid Agreement*" used in the Nice Act.

[40] In the Nice Act, this provision constitutes paragraph (6).

[41] The word "paragraph" used here replaces the word "*Article*" used in the Nice Act.

[42] Paragraph (7) of the Nice Act ("*The provisions of Article 16bis of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement*") is omitted. But see footnote 47, below.

[43] Under the Nice Act, instruments of ratification of that Act were to be deposited at Paris (see Article 12(1) of the Nice Act, quoted in footnote 25, above) whereas instruments of accession were to be deposited with the Government of Switzerland (cf. Article 11(1) of the Nice Act, quoted in footnote 24, above).

[44] This paragraph replaces Article 12(2) and (3) of the Nice Act reading as follows:

"*(2) It* [i.e., the Nice Act] *shall come into force between the countries in whose names it has been ratified or which have acceded to it in accordance with Article 11(1), when twelve countries at least have ratified it or acceded to it, two years after the deposit of the twelfth instrument of ratification or accession has been notified to them by the Government of the Swiss Confederation, and it shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.*

"*(3) In the case of countries which deposit their instruments of ratification or accession after the deposit of the twelfth instrument of ratification or accession, it shall enter into force in accordance with the provisions of Article 16 of the Paris Convention. However, this entry into force shall be subject in all cases to the expiration of the period provided in the preceding paragraph.*"

[*Article 11, continued*]

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.[45]

(6) After the entry into force of this Act, a country may accede to the Nice Act of June 15, 1957, only in conjunction with ratification of, or accession to, this Act. Accession to Acts earlier than the Nice Act shall not be permitted, not even in conjunction with ratification of, or accession to, this Act.[46]

Note: Corresponding provision in S/3, Article 16quater, received.

(7) The provisions of Article 16quinquies[47] of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 11*bis* [DENUNCIATION]

(1) This Agreement shall remain in force for an indefinite time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.[48]

(5)[49] International marks registered up to the date on which denunciation becomes effective, and not refused within the period of one year referred to in Article 5, shall continue, throughout the period of international protection, to enjoy the same protection as if they had been directly filed and registered[50] in the denouncing[51] country.

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[45] In the Nice Act, this rule contained in the Paris Convention (Article 16(3) of the Lisbon Act) is incorporated by a reference to the Paris Convention (cf. Article 11(1) of the Nice Act, quoted in footnote 25, above).

[46] The provision here proposed replaces the second sentence of Article 11(1) of the Nice Act reading as follows: "*This accession* [i.e., any accession by a country outside the Special Union] *shall be valid only for the text of the Agreement as last revised.*"

[47] The suffix "quinquies" here used replaces the suffix "*bis*" used in the Nice Act.

[48] Paragraphs (1), (2), (3) and (4) replace the first sentence of Article 11*bis* of the Nice Act which reads as follows: "*In the event of denunciation of this Agreement, the provisions of Article 17bis of the Paris Convention for the Protection of Industrial Property shall apply.*"

[49] The provision which, here, constitutes paragraph (5), constitutes, in the Nice Act, the second sentence of Article 11*bis*. The differences between the two texts are indicated in the following two footnotes.

[50] The words "and registered" do not appear in the Nice Act.

[51] The word "*ce*" in the French text has been rendered in English by the words "the denouncing" to bring out the meaning clearly.

ARTICLE 12 [APPLICATION OF EARLIER ACTS]

Note: Couespauding ptoisiou of S/3, Artide 18, reserved.

(1)[52] This Act shall, in all the relations among the countries by which it has been ratified or acceded to, replace, as from the day on which it enters into force with respect to them, the Madrid Agreement of 1891, in its texts earlier than this Act.

(2)[53] However, any country which has ratified this Act or has acceded to it shall remain bound by the earlier texts in its relations with countries which have not ratified it or acceded to it.

(3)(a) Notwithstanding the provisions of paragraph (2), any country which is a party to the London Act of June 2, 1934, and which has not ratified or acceded to the Nice Act of June 15, 1957, may, when it ratifies or accedes to the present Act, declare that it no longer wishes to be bound by the London Act.[54]

(b)[55] This declaration shall be notified to the Director General.[56]

(c)[57] It shall not be effective until twelve months after its receipt by the Director General.[58]

ARTICLE 13 [SIGNATURE, ETC.][59]

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) ~~Authoritative~~ texts may be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

⊢ official

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

[*Follows Article 13(3)*]

[52] In the Nice Act, this provision constitutes the first sentence of paragraph (4).

[53] In the Nice Act, this provision constitutes the first phrase of the second sentence of paragraph (4).

[54] This provision replaces the second phrase of the second sentence of paragraph (4) of the Nice Act, reading as follows: "*unless that country has expressly declared that it no longer wishes to be bound by those texts.*"

[55] In the Nice Act, this provision constitutes the third sentence of paragraph (4).

[56] The words "Director General" used here replace the words "*Government of the Swiss Confederation*" used in the Nice Act.

[57] In the Nice Act, this provision constitutes the fourth sentence of paragraph (4).

[58] The words "Director General" used here replace the words "*said Government*" used in the Nice Act.

[59] There is no Article 13 in the Nice Act.

[*Article 13, continued*]

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations [illegible].

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments, entry into force of any provisions of this Act, denunciations, and notifications pursuant to Articles 3*bis*, 9*quater*, 10*quater*, 11(7), and 12(3).

ARTICLE 14 [TRANSITIONAL PROVISIONS] [60]

(1) Until the first Director General assumes office, references in the present Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the International Bureau of the Union established by the Paris Convention for the Protection of Industrial Property, united with the International Bureau of the Union established by the Berne Convention for the Protection of Literary and Artistic Works, or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the International Intellectual Property Organization, exercise, if they so desire, the rights provided under Articles 10 to 10*quater* of the present Act as if they had ratified or acceded to this Act. Such countries are deemed to be members of the Assembly.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

[*Here will follow the names of the States members of the Madrid Union invited to the Stockholm Conference, each name being preceded by the words "For the Government of," and followed by a blank space reserved for the signature or signatures.*]

[60] There is no Article 14 in the Nice Act.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 25,1967 N° S/201
Subject (Union): Madrid (FIS)
Original: English/French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

WORK SHEET ON S/5 FOR MAIN COMMITTEE IV

In view of the decisions of Main Committee IV relating to the administrative and final clauses of the Paris Convention (S/3), the following amendment should be made to document S/5 (Madrid Agreement for the Repression of False or Deceptive Indications of Source): Replace in Article 5 (2) "one month" by "three months."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 25, 1967 N° S/202
Subject (Union): The Hague
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

WORK SHEET ON S/6 FOR MAIN COMMITTEE IV

Since The Hague Agreement concerning the International Deposit of Industrial Designs exists only in French, this document has only been produced in the French language.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 25, 1967 N° S/ 203 21
Subject (Union): NICE
Original: English/French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

WORK SHEET ON S/7 FOR MAIN COMMITTEE IV

The attached document contains an updated version of Document S/7 (Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Trademarks and Service Marks), which takes into account the decisions of Main Committee IV relating to the Administrative and Final Clauses of the Paris Convention (S/3).

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PROPOSED TEXT

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF TRADEMARKS AND SERVICE MARKS [1]

ARTICLE 1
[ESTABLISHMENT OF THE CLASSIFICATION]

[*No change is proposed.*]

ARTICLE 2
[USE AND EFFECTS OF THE CLASSIFICATION]

[*No change is proposed.*]

ARTICLE 3
[AMENDING THE CLASSIFICATION]

[*No change is proposed.*]

[*Follows Article 4*]

[1] The words "for the purposes of the registration of trademarks and service marks" used here replace the words "*to which trademarks are applied*" used in the Nice Act.

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p.3

Proposed Text: Nice Agreement

ARTICLE 4
[COMMUNICATION AND ENTRY INTO FORCE OF AMENDMENTS MADE IN THE CLASSIFICATION]

[*No change is proposed.*]

ARTICLE 5 [ASSEMBLY][2]

(1)(a) The Special Union shall have an Assembly consisting of [...] countries which have ratified or acceded to this Act. those

(b) The Government of each country shall be represented by one or more delegates who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each Delegation shall be borne by the Government which has appointed it.

(2)(a) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of its Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision; due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) determine the program and adopt the triennial budget of the Special Union and approve its final accounts;

(iii bis) adopt the Financial Regulations of the Special Union;

(iv) review and approve reports and activities of the Director General of the Organization concerning the Special Union, and give [instructions to] him [in such matters]; any necessary instructions concerning matters within the competence of the Special Union;

(v) establish, in addition to the Committee of Experts referred to in Article 3, such committees as may be considered necessary for the work of the Special Union;

(vi) determine which countries outside the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(vii) adopt amendments to Articles 5 to 5*quater*;

(viii) take any other appropriate action designed to further the objectives of the Special Union;

(ix) exercise such other functions as are allocated to it By this Agreement.

[*Follows Article 5(2)(b)*]

[Note: New item (xii) of Article 13(2)(a) of Document S/3 does not concern this Agreement.]

[2] Articles 5, 5*bis*, 5*ter*, and 5*quater*, here proposed, replace Article 5 of the original Act of 1957 which reads as follows:

"*(1) The expenses which the International Bureau incurs in carrying out this Agreement shall be borne in common by the contracting countries in accordance with the provisions of Article 13(8), (9), and (10), of the Paris Convention for the Protection of Industrial Property. Until a further decision is made, these expenses may not exceed the sum of 40,000 gold francs per annum.*

"*(2) The expenses referred to in paragraph (1) of Article 5 shall not include expenses relating to the work of diplomatic conferences, or those due to special work or publications carried out in accordance with the decisions of a conference. These expenses, the annual total of which may not exceed 10,000 gold francs, shall be borne in common by the contracting countries as provided by the terms of paragraph (1) above.*

"*(3) The totals of the expenses provided for in paragraphs (1) and (2) above may, if necessary, be increased by decision of the contracting countries or of one of the Conferences referred to in Article 8; such decisions shall be deemed valid if they are supported by four-fifths of the contracting countries.*"

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Proposed Text: Nice Agreement

[*Article 5(2), continued*]

(b) In exercising its functions with respect to matters which are of interest also to other Unions whose administrative tasks or administration is entrusted to the International Intellectual Property Organization (designated in this Act as "the Organization"), the Assembly shall take due consideration the advice of the Coordination Committee of the Organization.

(3)(a) Each country member of the Assembly shall have one vote in the Assembly.

(b) One-third of the countries members of the Assembly shall constitute a quorum.

(c) Subject to the provisions of subparagraphs (b) and (e), and Article 5*quater*(2), the Assembly shall make its decisions by a simple majority of the votes cast.

(d) Decisions to admit to meetings as observers countries outside the Special Union, as well as intergovernmental and international non-governmental organizations, shall require at least two-thirds of the votes cast.

(e) The adoption of the budget to the extent that it increases the financial obligations of the countries of the Union shall require at least two-thirds of the votes cast.

(f) Abstentions shall not be considered as votes.

(g) Each delegate may represent, and vote in the name of, one country only.

(2)(b): "In exercising its fun
tions with respect to matters
which are of interest also to
other Unions within the meanin
Article (2)(vii) of the Convent
establishing the Organization,
Assembly shall make a decision
after having heard the advice o
the Coordination Committee of t
Organization."

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(3)(c): "If less than one-third
at least one-third of the countr
members of the Assembly are repr
ted in any session, the decision
the Assembly shall be provisiona
Any provisional decision shall b
communicated in writing to each
try member of the Assembly which
not represented in the session.
communication shall be accompani
by an invitation that such count
pronounce itself within a period
four months from the date of the
communication. If, within this
iod, together with the written p
nouncements received by the Inte
tional
Bureau, the required quorum and
majority are attained, the decis
shall be final."

(3)(d): "Decisions of the Assem
shall require at least two-third
the votes cast."

(3)(e): "Abstentions shall not
considered as votes."

[Options Article 5bis]

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[Article 5 (3), continued]

(f) Each delegation may represent, and vote in the name of, one country only (see S/35). However:

(i) Countries of the Special Union grouped together under the terms of an international agreement in a common Office possessing for each of them the character of a special national service of industrial property, as defined in Article 12 of the Paris Convention for the Protection of Industrial Property, may be jointly represented during discussions by one of their number;

(ii) in general, the countries of the Special Union referred to in item (i) must endeavor to send their own delegation to the sessions of the Assembly. If, however, for exceptional reasons a country cannot send its own delegation, it may give to the delegation of another country the power to vote in its name. This delegation of powers must be set out in a document signed by the Head of State or the competent Minister;

(iii) each delegation may vote by proxy for one country only.

(g) Countries of the Special Union that are not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session, upon convocation by the Director General of the Organization, ~~preferably~~ during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General, at the request of one-fourth of the countries ~~constituting~~ the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

→ in the absence of exceptional circumstances.

members of

Document S/7, Nov. 17, 1953

ARTICLE 5*bis* [INTERNATIONAL BUREAU][2]

(1)(a) The administrative tasks with respect to the Special Union shall be performed by the International Bureau of the Organization (designated in this Act as "the International Bureau").

(b) In particular, the International Bureau shall make preparations for the meetings and provide the secretariat of the Assembly, of the Committee of Experts, and of such other committees as may have been established by the Assembly or the Committee of Experts.

(c) The Director General of the Organization shall be the chief administrative officer of the Special Union and shall represent the Union.

(2) ~~The International Bureau~~ shall participate, without the right to vote, in the meetings of the Assembly, of the Committee of Experts, and of such other committees as may have been established by the Assembly or the Committee of Experts.

(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 5*quater*.

(b) The Director General or persons designated by him shall take part in the discussions at these conferences, but without the right to vote.

(4) The International Bureau shall carry out any other tasks assigned to it.

Special

The Director General or persons designated by him

(3)(a-bis):

~~(3)(a-bis)~~: "The International Bure may consult with intergovernmental a international non-governmental organi tions concerning preparations for conferences of revision."

. . . .

ARTICLE 5*ter* [FINANCES][2]

(1)(a) The Special Union shall have a budget.

~~(b) The budget of the Special Union shall include the proper expenses of the Special Union itself and its share in the common expenses, as defined in the following subparagraph.~~

Special

Special

(1)(b): "The budget of the Union sh include the income and expenses prop to the Union itself, its contributio the budget of expenses common to the Unions, and, where applicable, the s made available to the budget of the Conference of the Organization."

[*Follows Article 5ter(1)(c)*]

[2] See above, page 17.

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[*Article 5ter, continued*]

~~(c) Expenses attributable not exclusively to the Special~~ Union ~~but~~ also to one or more other Unions administered by the Organization, or also to the Organization as such, shall be considered as common expenses. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the various Unions administered by the Organization ~~and with the budget of the Organization as such.~~

(3) The budget of the Special Union shall be financed from the following sources:

(i) contributions of the countries of the Special Union;

(ii) charges due for services performed by the International Bureau in relation to the Special Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4)(a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the International (Paris) Union for the Protection of Industrial Property, and shall pay its annual contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed by all countries of the Special Union as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its financial contributions shall have no vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its vote if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances. ~~At the middle of the second of the two full years, the Director General shall remind the Government of the country that its contributions are overdue. Omission of such a reminder shall not affect the application of the provisions of the present subparagraph.~~

(5) The amount of the charges due for services rendered by the International Bureau in relation to the Special Union shall be established by the Director General, who shall report on them to the Assembly.

(1)(c): "Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them."

(2): "The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization."

(3)(e): "If the budget is not adopted before the beginning of a new financial period, ~~it shall be carried over as provided in the Financial Regulations.~~"

[*Follows Article 5ter(6)(a)*]

the budget of the previous year shall be carried over as provided in the Financial Regulations.

[*Article* 5ter, *continued*]

~~(6)(a) The Special Union shall have a working capital fund which shall be constituted by payments made by the countries of the Special Union.~~

~~(b) The amount of the payment of each country shall be proportionate to its annual contribution.~~

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(7)(a) In the Headquarters Agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in the preceding subparagraph and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 5*quater* [AMENDMENTS TO ARTICLES 5 TO 5*quater*][1]

[*See text of the Article on page 27*]

(6)(a): "The Special Union shall have a Working Capital Fund which shall be constituted by a single payment made by each of the countries of the Special Union. If the fund is reduced to an unreasonable level, an increase shall be decided by the Assembly."

~~(b)~~(b): "The amount of the payment of each country to the fund or to an increase shall be a proportion of the contribution of that country for the year in which the fund is established or the increase made."

as a party to the Paris Convention for the Protection of Industrial Property

[1] See above, page 17.

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Proposed Text: Nice Agreement

[*Article* 5quater]

(1) Proposals for the amendment of Articles 5, 5*bis*, 5*ter*, and the present Article, shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in the preceding paragraph shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided, however, that any amendment of Article 5, and of the present paragraph, shall require ~~the unanimity~~ of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force when written notifications of acceptance have been received by the Director General from three-fourths of the countries members of the Assembly at the time it has adopted the amendment. Amendments to the said Articles thus accepted shall bind all countries which are members of the Assembly at the time the amendment enters into force or which become members thereof at a subsequent date, except that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

↳ may be initiated by any country member of the Assembly, or the Director General and

⟝ at least four-fifths

[*Follows Article 6*]

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ARTICLE 6 [RATIFICATION AND ACCESSION; ENTRY INTO FORCE; ACCESSION TO EARLIER ACTS][3]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of this Special Union.

Note: Corresponding provision in S/3, Article 16bis paragraph (1) reserved.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4)(a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force ~~one month~~ three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force ~~one month~~ three months after the date on which its ratification or accession has been notified by the Director General unless the country has indicated a subsequent date in its instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, a country may accede to the original Act of June 15, 1957, of this Agreement, only in conjunction with ratification of, or accession to, this Act.

Note: Corresponding provision in Article 16quater reserved.

[*Follows Article 7*]

[3] Article 6 here proposed replaces Article 6 and the first sentence of Article 7 of the original Act of 1957, which read as follows:

"[Article 6]:

"(1) This Agreement shall be ratified and the instruments of ratification deposited in Paris not later than December 31, 1961. The ratifications, with their dates and any statements accompanying them, shall be notified by the French Republic to the Governments of the other contracting countries.

"(2) Member countries of the Union for the Protection of Industrial Property which have not signed this Agreement in accordance with Article 11(2) shall be allowed to accede to it, at their request, in accordance with the provisions of Article 16 of the Paris Convention for the Protection of Industrial Property.

"(3) Countries which have not deposited an instrument of ratification within the period prescribed by paragraph (1) of this Article shall be allowed to accede to the Agreement in accordance with Article 16 of the Paris Convention for the Protection of Industrial Property."

"[Article 7]:

"This Agreement shall come into force between those countries which have ratified it or acceded to it one month from the date on which the instruments of ratification have been deposited or the accession notified by not less than ten countries . . ."

ARTICLE 7 [FORCE AND DURATION]

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.[4]

ARTICLE 8 [REVISION OF THE PROVISIONS OF THE AGREEMENT OTHER THAN ARTICLES 5 TO 5*quater*]

Note: Corresponding provision of S/3, Article 14, reserved.

(1) This Agreement shall be submitted to revisions [5] with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held between the delegates of the countries of the Special Union.[6]

ARTICLE 8*bis* [APPLICATION OF THE ORIGINAL ACT OF 1957][7]

Note: Corresponding provision of S/3, Article 18, reserved.

(1) This Act shall, as regards the relations between the countries by which it has been ratified or acceded to, replace the original Act of June 15, 1957.

(2) However, any country which has ratified this Act or has acceded to it shall be bound by the original Act of June 15, 1957, in its relations with countries of the Special Union which have not ratified, or acceded to, this Act.

[*Follows Article 9*]

[4] In the original Act of 1957, this provision constitutes the second sentence of Article 7. As to the first sentence, see footnote 3, above.

[5] In the original Act of 1957, the word "revisions" is preceded by the word "*periodical*," which is omitted here.

[6] In the original Act of 1957, this paragraph reads as follows: "*Every revision shall be considered at a Conference which shall be held in one of the contracting countries between the delegates of the said countries.*" It is proposed to omit paragraphs (3) and (4) appearing in the original Act of 1957; they read as follows: "*(3) The Administration of the country in which the conference is to be held shall prepare the work of the conference with the assistance of the International Bureau.*" (see proposed Articles 5(2)(a)(ii) and 5*bis*(3)(a)) and "*(4) The Director of the International Bureau shall attend the meetings of the Conferences and take part in the discussions, but without the right to vote.*" (see proposed Article 5*bis*(3)(b)).

[7] This Article does not appear in the original Act of 1957.

ARTICLE 9 [DENUNCIATION]

(1) This Agreement shall remain in force for an indefinite time.[8]

(2) Any country may denounce this Act by notification addressed to the Director General.[9] Such denunciation shall constitute also denunciation of the original Act of June 15, 1957, of this Agreement and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.[10]

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.[11]

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.[11]

ARTICLE 10 [TERRITORIES]

The provisions of Article 16*quinquies*[12] of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 11 [SIGNATURE, ETC.][13]

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) ~~Authentic~~ Official texts may be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

[*Follows Article 11(2)*]

[8] The provision contained in this paragraph does not appear in the original Act of 1957.

[9] This sentence corresponds to the provision constituting Article 9(1) in the original Act of 1957: "*Each contracting country shall be entitled to denounce this Agreement by means of a written notification addressed to the Government of the Swiss Confederation.*"

[10] The second sentence of paragraph (2), and paragraph (3), here proposed correspond to the provision constituting Article 9(2) in the original Act of 1957: "*(2) This denunciation, which shall be communicated by the Government of the Swiss Confederation to all other contracting countries, shall have effect only in respect of the denouncing country and only twelve months after receipt of the notification by the Government of the Swiss Confederation; the Agreement shall remain in force for the other contracting countries.*"

[11] The provision contained in this paragraph does not appear in the original Act of 1957.

[12] The suffix "quinquies" used here replaces the suffix "*bis*" used in the original Act of 1957.

[13] In the original Act of 1957, Article 11 has two paragraphs and reads as follows:

"*(1) This Agreement shall be signed in a single copy, which shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic. A certified copy shall be transmitted through diplomatic channels to each of the Governments of the contracting countries.*

"*(2) This Agreement shall remain open for signature by the member countries of the Union for the Protection of Industrial Property until December 31, 1958, or until it comes into force, whichever date is the earlier.*"

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[*Article 11, continued*]

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations ~~[as soon as possible]~~.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, and notifications of denunciation.

ARTICLE 12 [TRANSITIONAL PROVISIONS][14]

(1) Until the first Director General assumes office, references in the present Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the International Bureau of the Union established by the Paris Convention for the Protection of Industrial Property, united with the International Bureau of the Union established by the Berne Convention for the Protection of Literary and Artistic Works, or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the International Intellectual Property Organization, exercise, if they so desire, the rights provided under Articles 5 to 5*quater* of the present Act as if they had ratified or acceded to this Act. Such countries are deemed to be members of the Assembly.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

[*Here will follow the names of the States members of the Nice Union invited to the Stockholm Conference, each name being preceded by the words "For the Government of," and followed by a blank space reserved for the signature or signatures.*]

[*End of Proposed Text*]

[14] There is no Article 12 in the original Act of 1957.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 25, 1967 N° S/204
Subject (Union): Lisbon
Original: English/French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

WORK SHEET ON S/8 FOR MAIN COMMITTEE IV

The attached document contains an updated version of document S/8 (Lisbon Agreement for the Protection of Appellations of Origin and their International Registration) which takes into account the decisions of Main Committee IV relating to the administrative and final clauses of the Paris Convention (S/3).

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PROPOSED TEXT

LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION

ARTICLE 1

(1)[1] The countries to which this Agreement applies form a Special Union within the framework of the Union for the Protection of Industrial Property.

(2)[2] They undertake to protect on their territories, in accordance with the terms of this Agreement, the appellations of origin of products of the other countries of the Special Union, recognized and protected as such in the country of origin and registered at the **International Bureau of Intellectual Property (hereinafter designated as "the International Bureau" or "the Bureau") referred to in the Convention establishing the International Intellectual Property Organization (hereinafter designated as "the Organization").**[3]

ARTICLE 2

[*No change is proposed.*]

ARTICLE 3

[*No change is proposed.*]

ARTICLE 4

The provisions of this Agreement shall in no way exclude the protection already granted to appellations of origin in each of the countries of the Special Union by virtue of other international instruments, such as the Paris Convention of March 20, 1883, for the Protection of Industrial Property **and its subsequent revisions,**[4] and the Madrid Agreement of April 14, 1891, for the Repression of False or Deceptive Indications of Source **and its subsequent revisions,**[5] or by virtue of national legislation or judicial decisions.

[*Follows Article 5*]

[1] In the original Act of 1958, this paragraph is unnumbered.

[2] *Idem.*

[3] The words printed here in heavy type replace the words "*Bureau of the Union for the Protection of Industrial Property*" used in the original Act of 1958.

[4] The words "**and its subsequent revisions**" used here replace the words "*last revised at Lisbon on October 31, 1958.*"

[5] *Idem.*

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ARTICLE 5

(1) The registration of appellations of origin shall be effected at the International Bureau,[6] at the request of the Administrations of the countries of the Special Union, in the name of any individual person or legal entity, public or private, having, according to their national legislation, a right to use such appellations.

(2) [*No change is proposed.*]

(3) [*No change is proposed.*]

(4) [*No change is proposed.*]

(5) [*No change is proposed.*]

(6) [*No change is proposed.*]

ARTICLE 6

[*No change is proposed.*]

ARTICLE 7

(1) [*No change is proposed.*]

(2) A single fee shall be paid for the registration of each appellation of origin.[7]

ARTICLE 8

[*No change is proposed.*]

[*Follows Article 9*]

[6] The words "*for the Protection of Industrial Property*," appearing at this place in the original Act of 1958, are omitted here.

[7] In the original Act of 1958, paragraph (2) contains two more sentences. The second sentence reads as follows: "*The amount of the fee to be collected shall be fixed unanimously by the Council established under Article 9, below.*" The third sentence reads as follows: "*The receipts from the fees collected by the International Bureau shall be used to meet the expenses of the international registration service of appellations of origin, subject to the application, to the countries of the Special Union, of Article 13(8) of the Paris Convention.*" Both these sentences are omitted here. See, however, proposed Article 9(2)(a)(iii) and (3)(e), and Article 9*ter*(3)(i), (v), (4), and (5).

ARTICLE 9 [ASSEMBLY][8]

(1)(a) The Special Union shall have an Assembly consisting of ~~the~~ countries which have ratified or acceded to this Act. + those

(b) The Government of each country shall be represented by one or more delegates who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each Delegation shall be borne by the Government which has appointed it.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of its Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have ratified or acceded to this Act.

(iii) modify the Regulations, including the fixation of the amount of the fee referred to in Article 7(2);

(iv) determine the program and adopt the triennial budget of the Special Union and approve its final accounts; (iv)bis: "adopt the financial regulations of the Special Union;"

(v) review and approve reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give ~~instructions to~~ him ~~on such matters~~ any necessary instructions concerning matters within the competence of the Special Union.

(vi) establish such committees as may be considered necessary for the work of the Special Union;

(vii) determine which countries outside the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(viii) adopt amendments to Articles 9 to 9*quater*;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) exercise such other functions as are allocated to it by this Agreement.

Note: New item (xii) of Article 13(2)(a) [S/3] does not concern this Agreement.

[*Follows Article 9(2)(b)*]

[8] Articles 9, 9*bis*, 9*ter*, and 9*quater*, here proposed replace Article 9 of the original Act of 1958 which reads as follows:
"*(1) A Council composed of representatives of all the countries members of the Special Union shall be established, at the International Bureau, for the implementation of this Agreement.*
"*(2) This Council shall draw up its own statutes and rules of procedure and coordinate them with the organs of the Union for the Protection of Industrial Property and with those of international organizations which have concluded agreements for cooperation with the International Bureau.*"

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[*Article 9(2), continued*]

~~(b) In exercising its functions with respect to matters which are of interest also to other Unions whose administrative tasks or administration is entrusted to the Organization, the Assembly shall take into consideration the advice of the Coordination Committee of the Organization.~~

(3)(a) Each country member of the Assembly shall have one vote in the Assembly.

alf (b) One-~~[third]~~ of the countries members of the Assembly shall constitute a quorum.

~~(c) Subject to the provisions of subparagraphs (d) and (e) and Article 9*quater*(2), the Assembly shall make its decisions by a simple majority of the votes cast.~~

~~(d) Decisions to admit to meetings as observers countries outside the Special Union, as well as intergovernmental and international non-governmental organizations, shall require at least two-thirds of the votes cast.~~

~~(e) Any modification of the Regulations, including the fixation of the amount of the fee referred to in Article 7(2), and any decision as to the amount of possible financial contributions by countries of the Special Union to the budget of the Special Union, shall require at least two-thirds of the votes cast.~~

~~(f) Abstentions shall not be considered as votes.~~

~~(g) Each delegate may represent, and vote in the name of, one country only.~~

(2)(b): "In exercising its functions with respect to matters which are of interest also to other Unions within the meaning of Article (2)(vii) of the Convention establishing the Organization, the Assembly shall make a decision after having heard the advice of the Coordination Committee of the Organization."

(3)(c): "If less than one-~~[third]~~ half but at least one-third of the countries members of the Assembly are represented in any session, the decision of the Assembly shall be provisional. Any provisional decision shall be communicated in writing to each country member of the Assembly which was not represented in the session. The communication shall be accompanied by an invitation that such country pronounce itself within a period of four months from the date of the communication. If, within this period, together with the written pronouncements received by the International Bureau, the required quorum and majority are attained, the decision shall be final."

(3)(d): "Decisions of the Assembly shall require at least two-thirds of the votes cast."

(3)(e): "Abstentions shall not be considered as votes."

[*Article 9(2), continued*]

(f) Each delegation may represent, and vote in the name of, one country only (see S/35). However:

(i) Countries of the Special Union grouped together under the terms of an international agreement in a common Office possessing for each of them the character of a special national service of industrial property, as defined in Article 12 of the Paris Convention for the Protection of Industrial Property, may be jointly represented during discussions by one of their number;

(ii) in general, the countries of the Special Union referred to in item (i) must endeavor to send their own delegation to the sessions of the Assembly. If, however, for exceptional reasons a country cannot send its own delegation, it may give to the delegation of another country the power to vote in its name. This delegation of powers must be set out in a document signed by the Head of State; or the competent Minister.

(iii) each delegation may vote by proxy for one country only.

(g) Countries of the Special Union that are not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session, upon convocation by the Director General, ~~preferably~~ during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General, at the request of one-fourth of the countries ~~constituting~~ the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

H in the absence of exceptional circumstances

H members of

[*Follows Article 9bis*]

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Proposed Text: Lisbon Agreement

ARTICLE 9*bis* [INTERNATIONAL BUREAU][8]

(1)(a) The international registration and related duties, as well as all the other international administrative tasks with respect to the Special Union, shall be performed by the International Bureau.

(b) In particular, the International Bureau shall make preparations for the meetings and provide the secretariat of the Assembly and of such committees as may have been established by the Assembly.

(c) The Director General of the Organization shall be the chief administrative officer of the Special Union and shall represent the Special Union.

(2) The ~~International Bureau~~ shall participate, without the right to vote, in the meetings of the Assembly and of such committees as may have been established by the Assembly.

(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 9 to 9*quater*.

(b) The Director General or persons designated by him shall take part in the discussions at these conferences, but without the right to vote.

(4) The International Bureau shall carry out any other tasks assigned to it.

H Director General or persons designated by him

(3)(a-bis). "The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision."

[*Follows Article* 9ter]

[8] See footnote 8, above, page 19.

ARTICLE 9*ter* [FINANCES][8]

Proposed Text: Lisbon Agreement

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41 (1)(a) The Special Union shall have a budget.

~~(b) The budget of the Special Union shall include the proper expenses of the Special Union itself and its share in the common expenses, as defined in the following subparagraph.~~

~~(c) Expenses attributable not exclusively to the Special Union but also to one or more other Unions administered by the Organization, or also to the Organization as such, shall be considered as common expenses. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.~~

~~(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the various Unions administered by the Organization and with the budget of the Organization as such.~~

⌜Special (1)(b): "The budget of the ⌜Union shall include the income and expenses proper ⌜Special to the ⌜Union itself, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization."

⌜Special (1)(c): "Expenses not attributable exclusively to the ⌜Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share ⌜Special of the ⌜Union in such common expenses shall be in proportion to the interest ⌜Special the ⌜Union has in them."

⌜Special (2): "The budget of the ⌜Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization."

(3) The budget of the Special Union shall be financed from the following sources:

(i) international registration fees collected under Article 7(2) and charges due for other services performed by the International Bureau in relation to the Special Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income;

(v) contributions of the countries of the Special Union, if and to the extent to which receipts from the sources indicated in items (i) to (iv) do not suffice to cover the expenses of the Special Union.

(4)(a) The amount of the fee referred to in Article 7(2) shall be proposed by the Director General and shall be fixed by the Assembly.

(b) The amount of the said fee shall be so fixed that the revenue of the Special Union should, under normal circumstances, be sufficient to cover the expenses of the International Bureau for maintaining the international registration service, without requiring the payment of contributions referred to in paragraph (3)(v), above.

[*Article 9ter, continued*]

(5)(a) For the purpose of establishing its contribution referred to in paragraph (3)(v), each country of the Special Union shall belong to the same class as it belongs to in the International (Paris) Union for the Protection of Industrial Property, and shall pay its contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed by all countries of the Special Union as the number of its units is to the total of the units of all contributing countries.

annual

(c) The date on which contributions are to be paid shall be fixed by the Assembly.

(d) A country which has not paid its financial contribution before the expiration of two years from the date referred to in the preceding subparagraph shall have no vote in any organ of the Special Union. However, any organ of the Special Union may allow a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment arises from exceptional circumstances. ~~At the expiration of one year from the date referred to in the preceding subparagraph, the Director General shall remind the Government of the country that its contribution is overdue. Omission of such a reminder shall not affect the application of the provisions of the present subparagraph.~~

(5)(c): "If the budget is not adopted before the beginning of a new financial period, the budget of the previous year shall be carried over as provided in the Financial Regulations." /Oral proposal of U.S. Delegation: "it may be carried over under the conditions of ...". Oral proposal of French Delegation: Budget is carried over within the limits of a normal budget./

(6) The amount of the charges due for services other than registration proper rendered by the International Bureau in relation to the Special Union shall be established by the Director General, who shall report on them to the Assembly.

~~(7)(a) The Special Union shall have a working capital fund which shall be constituted by payments made by the countries of the Special Union.~~

~~(b) The amount of the payment of each country shall be proportionate to its annual contribution as a party to the Paris Convention for the Protection of Industrial Property.~~

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(8)(a) In the Headquarters Agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

special

(7)(a): "The Union shall have a Working Capital Fund which shall be constituted by a single payment made by each of the countries of the Union. If the fund is reduced to a reasonable level, an increase shall be decided by the Assembly."

(7)(b): "The amount of the payment of each country to the fund or to an increase shall be a proportion of the contribution of that country for the year in which the fund is established or the increase made."

[*Follows Article 9ter (8)(b)*]

as a party to the Paris Convention for the Protection of Industrial Property.

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[*Article 9ter(8), continued*]

(b) The country referred to in the preceding subparagraph and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(9) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 9*quater*
[AMENDMENTS TO ARTICLES 9 TO 9*quater*][8]

[*See text of the Article on page 31*]

[8] See footnote 8, above, page 19.

[*Article 9*quater]

(1) Proposals for the amendment of Articles 9, 9*bis*, 9*ter*, and the present Article [may be initiated by any country member of the Assembly or the Director General, and] shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in the preceding paragraph shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided, however, that any amendment of Article 9, and of the present paragraph, shall require [at least four-fifths] of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force when written notifications of acceptance have been received by the Director General from three-fourths of the countries members of the Assembly at the time it has adopted the amendment. Amendments to the said Articles thus accepted shall bind all countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, except that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 10 [REGULATIONS; AMENDMENTS]

(1) The details for carrying out this Agreement are fixed in the Regulations.[9]

[*Follows Article 10(2)*]

[9] In the original Act of 1958, the provision continues with the following words which are omitted here: "... *which shall be signed at the same time as the Agreement.*"

[*Article 10, continued*]

(2) This Agreement[10] may be revised by conferences held between the delegates of the Special Union.[11]

ARTICLE 11 [RATIFICATION AND ACCESSION; TERRITORIES; ENTRY INTO FORCE; ACCESSION TO THE ORIGINAL ACT OF 1958][12]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2)(a) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of this Special Union.

Note: Corresponding provision S/3, Article 16 bis (1), text

(b)[13] Notification of accession shall, in itself, ensure, on the territory of the acceding country, the benefit of the above provisions for appellations of origin which, at the time of the accession, are the subject of international registration.

(c)[14] However, any country acceding to this Agreement may, within a period of one year, declare in regard to which appellations of origin, already registered at the International Bureau, it wishes to exercise the right provided in Article 5(3).

[*Follows Article 11(3)*]

[10] In the original Act of 1958, the words "This Agreement" are followed by the words "*and the Regulations for carrying it out.*" These words are omitted here.

[11] The words "by conferences held between the delegates of the Special Union," used here replace the words "*in accordance with Article 14 of the General Convention,*" used in the original Act of 1958.

[12] This Article replaces the first three paragraphs of Article 11, and the whole of Article 13, of the original Act of 1958, which read as follows:

"[Article 11]

"*(1) Member countries of the Union for the Protection of Industrial Property which are not parties to this Agreement may accede to it at their request and in the manner prescribed in Articles 16 and 16bis of the Paris Convention.*

"*(2) Notification of accession shall, in itself, ensure, on the territory of the acceding country, the benefit of the above provisions for appellations of origin which, at the time of the accession, are the subject of international registration.*

"*(3) However, any country acceding to this Agreement may, within a period of one year, declare in regard to which appellations of origin, already registered at the International Bureau, it wishes to exercise the right provided for in Article 5(3).*"

"[Article 13]

"*This Agreement shall be ratified and the instruments of ratification deposited with the Government of the Swiss Confederation.*

"*It shall come into force upon ratification by five countries, one month after the deposit of the fifth ratification has been notified by the Government of the Swiss Confederation, and, in the countries in whose name it is ratified at a later date, one month after the notification of each of such ratifications.*"

[13] In the original Act of 1958, this provision appears as Article 11(2).

[14] In the original Act of 1958, this provision appears as Article 11(3).

[*Article 11, continued*]

(3) Instruments of ratification or accession shall be deposited with the Director General.

(4) The provisions of Article 16*quinquies* of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(5)(a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force ~~one month~~ after the deposit of the fifth such instrument.

H three months

(b) With respect to any other country, this Act shall enter into force ~~one month~~ after the date on which its ratification or accession has been notified by the Director General, unless the country has indicated a subsequent date in its instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

H three months

(6) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(7) After the entry into force of this Act, a country may accede to the original Act of October 31, 1958, of this Agreement only in conjunction with ratification of, or accession to, this Act.

Note: Corresponding provision in S/3, Article 16quater, reserved.

ARTICLE 12 [DENUNCIATION]

(1)[15] This Agreement shall remain in force as long as five countries at least are parties to it.

(2)[16] Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of October 31, 1958, of this Agreement and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3)[16] Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4)[16] The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

[*Follows Article 13*]

[15] In the original Act of 1958, Article 12 consists of the one sentence which now constitutes paragraph (1). Consequently, in the original Act of 1958, the paragraph is not numbered. The number is added here.

[16] Paragraphs (2), (3), and (4), of proposed Article 12 replace Article 11(4) of the original Act of 1958 reading as follows: "(4) *In the event of denunciation of this Agreement, Article 17*bis *of the Paris Convention shall apply.*"

Note: Corresponding prov
of S/3, Article 18, reserv

ARTICLE 13
[APPLICATION OF THE ORIGINAL ACT OF 1958][17]

(1) This Act shall, as regards the relations between the countries by which it has been ratified or acceded to, replace the original Act of October 31, 1958.

(2) However, any country which has ratified this Act or has acceded to it shall be bound by the original Act of October 31, 1958, in its relations with countries of the Special Union which have not ratified, or acceded to, this Act.

ARTICLE 14 [SIGNATURE, ETC.][18]

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) [~~Authentic~~] texts shall be established by the Director General, after consultation with the interested Governments, in the English, German, Italian, Portuguese, Russian and Spanish languages, and such additional languages as the Assembly may designate.

H official

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations [~~as soon as possible~~].

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, denunciations, and declarations pursuant to Article 11(2)(c) and (4).

[*Follows Article 15*]

[17] This Article replaces Article 13 of the original Act of 1958, whose text is quoted in footnote (12), above.

[18] This Article replaces Article 14 of the original Act of 1958, which reads as follows:

"*(1) This Agreement shall be signed in a single copy in the French language, which shall be deposited in the archives of the Government of the Swiss Confederation. A certified copy shall be transmitted by the latter to each of the Governments of the countries of the Special Union.*

"*(2) This Agreement shall remain open for signature by the countries of the Union for the Protection of Industrial Property until December 31, 1959.*

"*(3) Official translations of this Agreement shall be established in English, German, Italian, Portuguese and Spanish.*"

ARTICLE 15 [TRANSITIONAL PROVISIONS][19]

(1) Until the first Director General assumes office, references in the present Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the International Bureau of the Union established by the Paris Convention for the Protection of Industrial Property, united with the International Bureau of the Union established by the Berne Convention for the Protection of Literary and Artistic Works, or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the International Intellectual Property Organization, exercise, if they so desire, the rights provided under Articles 9 to 9*quater* of the present Act as if they had ratified or acceded to this Act. Such countries are deemed to be members of the Assembly.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

[*Here will follow the names of the States members of the Lisbon Union invited to the Stockholm Conference, each name being preceded by the words "For the Government of," and followed by a blank space reserved for the signature or signatures.*]

[*End of Proposed Text*]

[19] There is no Article 15 in the original Act of 1958.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/205
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY THE DELEGATION OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE TERM OF PROTECTION OF COPYRIGHT

(Document S/1)

The German Delegation invites the Stockholm Conference to express the following wish:

"The Stockholm Conference,

Considering that certain countries have expressed a desire for the term of protection to be extended,

that certain countries already grant a general term of protection in excess of 50 years after the death of the author,

that, moreover, several countries of the Union have extended the term of protection for reasons resulting from the war,

that negotiations have already taken place at international level with the object of providing for an extension of the term of protection by a Special Agreement,

that, in addition, Agreements have already been concluded between certain countries for the reciprocal recognition of an extension of the term of protection for reasons resulting from the war,

Proposes that negotiations should be continued between the countries concerned for the conclusion of a Special Agreement on the extension of the term of protection in countries parties to that Agreement."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/206
Subject (Union): Madrid TM
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENTS TO THE MADRID AGREEMENT - TRADEMARKS (DOCUMENT S/4) BY THE DELEGATION OF AUSTRIA

ARTICLE 8

Paragraph (7)

With regard to the basic fee, the applicant shall be entitled to pay, at the time of application for international registration, a part only of the basic fee laid down in the Regulations.

Paragraph (8)

If the applicant avails himself of this faculty, he shall, before the expiration of a period of ten years, counted from the international registration, pay to the International Bureau, the balance of the basic fee laid down in the Regulations, failing which, at the expiration of this period, he shall lose the benefit of his registration. Six months before such expiration, the International Bureau shall, by sending an unofficial notice, remind the applicant and his agent of the exact date of expiration. If the balance of the basic fee is not paid to the International Bureau before the expiration of this period, the Bureau shall cancel the mark, shall notify this operation to the national Administrations, and shall publish it in its journal.

Paragraph (9)

Nice text unchanged.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/207
Subject (Union): Madrid TM
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENTS TO THE MADRID AGREEMENT - TRADEMARKS (DOCUMENT S/4) BY THE AUSTRIAN DELEGATION

ARTICLE 10

(2)(a) The Assembly shall:

(iii) modify the Regulations, including the fixation of the amounts of the fees referred to in Article 8(2), (7) and (8) and other charges relating to international registration and sums due for services rendered by the International Bureau concerning the particular Union;

(iii)bis adopt the financial regulations of the Union;

(x) exercise such other functions as are allocated to it under the present Agreement.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/208
Subject (Union): Madrid TM
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENTS TO THE MADRID AGREEMENT - TRADEMARKS (DOCUMENT S/4) BY THE AUSTRIAN DELEGATION

ARTICLE 10ter

Delete paragraph (5).

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 16, 1967 N° S/209
Subject (Union): Paris Union
Original: French-English
Distribution: Main Committee III

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

DRAFT TEXT OF ARTICLE 4 - I ESTABLISHED BY MAIN COMMITTEE III AND SUBMITTED TO THE PLENARY OF THE PARIS UNION

I - (1) Applications for inventors' certificates filed in a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate shall give rise to the right of priority provided for by this Article, under the same conditions and with the same effects as applications for patents.

(2) In a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate, an applicant for an inventor's certificate shall, in accordance with the provisions of this Article relating to patent applications, enjoy a right of priority based on an application for a patent, a utility model or an inventor's certificate.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/210
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENTS TO THE BERNE CONVENTION (DOCUMENT S/1) BY THE DELEGATION OF BRAZIL

Preamble

The Contracting States, being convinced of the need to revise the Berne Convention on Copyright (1948), in harmony with the actual situation in regard to the protection of intellectual property and with the trend towards full protection which is a dominant feature of universal legislation, and in accordance with Article 24 of the said Convention, make the following amendments to its provisions, based on the following formula:

> The subject of the protection granted by the present Convention, in regard to authorship and the moral rights of the author, is any production of the mind possessing features of originality, apart from inventions and discoveries, which are protected by legislation on patents and marks.

Article 1

The countries to which this Convention applies constitute a Union for the protection of authors' rights over their literary and artistic works, as well as over the above-mentioned productions of the mind.

Articles 2 and 2bis

Unchanged.

Article 3

Delete.

Article 4

(1) Authors who belong to one of the countries of the Union shall enjoy in countries other than the country of origin of the work, f their unpublished works, that are first published in a country of Union, the rights which their respective laws do now or may hereaf grant to their nationals, as well as the rights specially granted this Convention. Under the same conditions, the authors of any production of the mind mentioned in the foregoing Preamble shall enjoy the moral rights and the right of authorship. (Remainder of article unchanged).

Articles 5 and 6

Unchanged.

Article 6bis

The word "work" in paragraph (1) should be replaced by "above-mentioned production of the mind".

Remainder of text unchanged.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/211
Subject (Union): Berne
Original: English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL OF THE UNITED KINGDOM DELEGATION

BERNE CONVENTION - DOCUMENT S/1

Article 16

(i) In paragraph (1), for "works infringing copyright may be seized" substitute "works infringing copyright shall be seized."

(ii) In paragraph (2), for "the seizure may also apply" substitute "the seizure shall also apply."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/212
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENT TO THE BERNE CONVENTION (DOCUMENT S/1) BY THE DELEGATION OF CZECHOSLOVAKIA

Folklore

Insert in the Convention the following provision:

"It shall be a matter for legislation in the countries of the Union to determine the competent authority representing the authors of folklore works and entitled to protect and enforce the authors' rights, subject to the application of the second sentence of Article 15(2)."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/213
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

Berne Convention
(Document S/1)

PROPOSAL BY THE DELEGATION OF ITALY
Protocol Regarding Developing Countries

Article 1

After the words:

"Any developing country which ratifies or accedes to the Act to which this Protocol is annexed and which, having regard to its economic situation and its social or cultural needs ..."

Add:

1. in the light, with respect to the latter, of the percentage of illiteracy and the rate of school attendance,

or possibly

2. the latter conjoint with the objective situation of education, etc. (BIRPI draft).

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/214
Subject (Union): Paris and Berne Unions
Original: English-French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

SECOND MEMORANDUM OF THE DRAFTING COMMITTEE OF MAIN COMMITTEE IV

(Chairman: Mr. Labry (France))

The Drafting Committee of Main Committee IV, in its meeting on June 26, agreed on the following draft of Article 13, paragraphs 2bis, 3, and 3bis of the Paris Convention, and of Article 21 paragraph (3) of the Berne Convention.

PARIS CONVENTION Document S/3	BERNE CONVENTION Document S/2
Article 13: ASSEMBLY	Article 21: ASSEMBLY
Article 13(2)bis	
(a) "Each delegation may represent only one country.	
(b) However, countries of the Union grouped under the terms of a special agreement in a common Office possessing for each of them the character of a special national service of industrial property referred to in Article 12 may be jointly represented during discussions by one of their number."	
(3)(a): "Each country member of the Assembly shall have a vote in the Assembly."	(3)(a):
(3)(b): "One-half of the countries members of the Assembly shall constitute a quorum."	(3)(b): same as opposite
(3)(c): "If less than one-half but at least one-third of the countries members of the Assembly are represented in any session, the decision of the Assembly shall be provisional. Any provisional decision shall be communicated in writing to each country	(3)(c): same as opposite

(Article on Assembly, continued)

member of the Assembly which was not represented in the session. The communication shall be accompanied by an invitation that such country pronounce itself within a period of four months from the date of the communication. If, within this period, together with the written pronouncements received by the International Bureau, the required quorum and majority are attained, the decision shall be final."	
(3)(d): "Subject to the provisions of Article 13quinquies, the decisions of the Assembly shall require two-thirds of the votes cast."	(3)(d): same as opposite
(3)(e): "Abstentions shall not be considered as votes."	(3)(e): same as opposite
Article 13(3)bis	
(a) "Subject to the provisions of subparagraph (b), each delegation may vote in the name of one country only.	(3)(f): "Each delegation may represent, and vote in the name of, one country only."
(b) The countries of the Union referred to in paragraph (2)bis(b) should, as a general rule, endeavor to send their own delegations to the sessions of the Assembly. If, however, for exceptional reasons, any one of such countries cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name provided that each delegation may vote by proxy for one country only. This power to vote shall be set out in a document signed by the Head of State or the competent Minister."	
(3)ter: "Member states of the Union that are not members of the Assembly shall be admitted to its meetings as observers."	(3)(g): same provision as that contained in paragraph (3)ter of Article 13 of the Paris Convention.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/215
Subject (Union): Berne
Original: English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY AUSTRALIA

BERNE CONVENTION (DOCUMENT S/1)

There should be inserted in the Convention as a second paragraph in existing Article 17, the following paragraph:

(2) Each country of the Union shall have the right to take such legislative measures as it shall deem necessary to prevent abuses which might result from the exercise of the rights conferred by this Convention. Such legislation shall not, however, be prejudicial to the moral right of the author, or to his right to obtain just remuneration which, in the absence of agreement, shall be fixed by competent authority.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/216
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENT TO THE BERNE CONVENTION (DOCUMENT S/1) BY THE DELEGATIONS OF MEXICO, BRAZIL AND PORTUGAL

Article 10, paragraph (2)

In the French text of document S/185 replace the word "phonogrammes" by the word "enregistrements".

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/217
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSALS OF THE DELEGATION OF BRAZIL

BERNE CONVENTION (Document S/1)

Article 11bis

(1) With reference to paragraph (1):

"Each of the special rights included in the general broadcasting rights referred to in paragraph (1) shall be exercizable by the author.

(2) With reference to paragraph (3):

"The private broadcasting organizations referred to, or official organizations, to the extent that they are engaged in profit-making activity, shall not benefit from the advantages granted by paragraph (3)."

Article 13

(1) Add to Article 13: "The provisions of Article 9(2) shall not apply to musical works."

(2) In paragraph (3) delete the reference to paragraph (1) and word the proposed text as follows:

"Recordings made in accordance with the provisions of paragraph (2) of this Article and imported without permission f the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 26, 1967 N° S/218
Subject (Union): IPO
Original: English
Distribution: Drafting Committee of Main Committee

65

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

Main Committee V at its morning session on June 23, 1967 elected the Drafting Committee composed of representatives of the following States:

Brazil
Czechoslovakia
France
Germany (Federal Republic)
Japan
Kenya
Spain
Sweden
Union of Soviet Socialist Republics
United Kingdom of Great Britain and Northern Ireland
United States of America

The first meeting of the Drafting Committee will take place on Tuesday, June 27, 1967, at 9.30 a.m. in Chamber II.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 27, 1967 N° S/219
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION: PROTOCOL REGARDING DEVELOPING COUNTRIES (DOCUMENT S/1)

PROPOSAL SUBMITTED BY THE DELEGATION OF BRAZIL

Maintain unaltered the present wording of Article 1: "Any developing country ..." and stress the idea that the term any includes the less developed countries that are already members of the Berne Union and those that may subsequently accede to it.

Strengthen the reservation concerning the protection of folk lore.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 27, 1967 N° 220
Subject (Union): Paris and Berne
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Proposal of the Swedish Delegation for Article 20 of the Paris Convention (S/3) and Article 32 of the Berne Convention (S/9)

Article 20(2) of the Paris Convention :
Article 32(2) of the Berne Convention :

1. Delete the words "if they so desire."

2. Add at the end of the paragraph (text contained in the document of the Drafting Committee of June 25) the following words :

"unless they notify the Director General in writing that they do not desire to exercise the said rights."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 27, 1967 N° 221
Subject (Union): Paris and Berne
Original: English
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Proposal of the Delegations of the Federal Republic of Germany and the United States

Paris Convention (S/3)
Berne Convention (S/9)

Article 20(2) of the Paris Convention
Article 32(2) of the Berne Convention :

Add the following new second sentence :
"Any country desiring to exercise such rights shall give written notification to the Director General, which notification shall be effective on receipt by the Director General."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 27, 1967 N° S/222
Subject (Union): Berne and Paris
Original: French and English
Distribution: Main Committee IV

INTELLECTUAL PROPERTY

CONFERENCE OF STOCKHOLM, 1967

[Berne Convention (S/9)
Amendment of Art. 27 bis
Paris Convention (S/3) new Art.] prepared by the Nordic Countries + Switzerland]

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be referred to the International Court of Justice by request in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country referring the dispute to the Court shall inform the International Bureau; the Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1. The other contracting parties shall not be bound by paragraph 1 with respect to any party having made such a declaration.

(3) Any contracting party having made a declaration in accordance with paragraph 2 may at any time withdraw this declaration by notification to the Director General.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 27, 1967 N° S/223
Subject (Union): Berne
Original: English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL OF THE DELEGATION OF ISRAEL

Berne Convention (Document S/1)

Article 17 New Paragraph 3

Article 17

(3) "It shall also be a matter for legislation in the countries of the Union to ensure that when a musical or dramatico-musical work has been made available with the consent of the author thereof, the graphic copies of the work be made accessible to the public without restrictions contrary to fair practice."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/224
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

MAIN COMMITTEE II

REPORT

of the Working Group set up to consider a possible criterion for the definition of the concept of a "developing country"

Main Committee II, at its meeting held in the morning of June 27, 1967, referred to a Working Group the consideration of a possible criterion for the definition of the concept of a "developing country".

This Working Group consisted of representatives of the following 12 countries: Brazil, Congo (Kinshasa), Czechoslovakia, France, India, Ireland, Italy, Ivory Coast, Senegal, Sweden, Tunisia, United Kingdom. The Working Group met at 2.30 p.m. the same day under the chairmanship of Mr. J.J. Lennon (Ireland).

The Working Group had before it several proposals for clarification of the wording of the first paragraph of Article 1 of the Protocol, as contained in document S/1, under the terms of which this Protocol might be applied to "any developing country ... which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided" in the Stockholm Act.

In the meeting of the Main Committee, the opinion had been expressed that the wording quoted above was drawn up too loosely and would not prevent countries which were not truly developing countries from claiming the benefits of the Protocol. The proposals before the Group therefore sought to establish an objective criterion to be used in determining developing countries.

The Working Group considered these proposals which sought to define developing countries entitled to benefit under the Protocol either by taking into account the date of their accession to the Berne Union as independent and sovereign States, or by adopting as a criterion the percentage of illiteracy and the rate of school attendance in those countries. Neither of these systems appeared satisfactory.

It also seemed inappropriate to make the accession of a developing country to the benefits of the Protocol dependent upon the prior approval of the Executive Committee of the Berne Union.

On the other hand, it was felt that an objective criterion which could be used for the practical application of the Protocol was the list of developing countries annexed to Resolution 1897(XVIII) adopted by the General Assembly of the United Nations at its Eighteenth Session on November 13, 1963. The members of the Working Group reached unanimous agreement on this point, on the understanding that the Protocol might also be invoked by other countries which had been or would be subsequently designated as developing countries by the General Assembly of the United Nations.

The Working Group therefore proposed unanimously that the first paragraph of Article 1 of the Protocol, as contained in document S/1, should be worded as follows:

> "Any developing country mentioned in the list of developing countries annexed to Resolution 1897(XVIII) adopted by the General Assembly of the United Nations at its Eighteenth Session on November 1963, or which has been or may be subsequently designated as a developing country by the General Assembly of the United Nations and which ratifies or accedes to the Act ..." (remainder unchanged).

It was agreed that the report of the Working Group should be submitted directly to Main Committee II.

As no member of the Working Group had asked to speak further, the Chairman closed the meeting at 3.30 p.m.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/225
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

SUGGESTED AMENDMENT BY THE SECRETARIAT TO THE BERNE CONVENTION (DOCUMENT S/1)

Article 7, paragraph (6)

Add the following second sentence:

"Countries of the Union bound by the Act of Rome of the present Convention that have in their national legislation in force at the time of signature of the present Act provisions that grant a lesser term of protection than those provided for in the preceding paragraphs shall have the right to maintain them when acceding to or ratifying the present Act."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/226
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENT TO THE BERNE CONVENTION (DOCUMENT S/1) BY THE DELEGATION OF ITALY

Article 17

After the word "legislation" delete the words "or regulation".

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/227
Subject (Union): Berne
Original: English
Distribution: Main Committees II & IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY THE DELEGATION OF ISRAEL

(Document S/9)

Delete Article 2Cbis.

Add the following new paragraph to Article 30:

"(3) Any developing country which ratifies or accedes to this Convention may, at the date of ratification or accession by a notification deposited in accordance with Article (25)(1)(a), declare that it will avail itself of the provisions of the Protocol regarding Developing Countries (annexed to and forming an integral part of this Convention) according in all respects to the terms thereof in place of undertaking to adopt the measures necessary to ensure the application of the parallel provisions of this Convention."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/228
Subject (Union): Berne
Original: English
Distribution: Main Committees II & IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY THE DELEGATION OF ISRAEL CONCERNING THE IMPLEMENTATION OF THE PROTOCOL REGARDING DEVELOPING COUNTRIES

(Document S/9)

The Delegation of Israel invites the Stockholm Conference to resolve as follows:

"The Stockholm Conference,

Recognizing the special economic and cultural needs of developing countries,

Desirous of enabling developing countries to have the full use of protected copyright for educational requirements,

Having for this purpose adopted the Protocol regarding Developing Countries,

Requests and authorizes the International Bureau to undertake in association with other governmental and non-governmental organizations a study of ways and means for creating financial machinery to ensure a fair and just return to authors."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/229
Subject (Union): Madrid (TM)
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

Add to Article 8, (5) and (6), of the Madrid Agreement concerning the International Registration of Trademarks and Service Marks (document S/4) the following sentence:

"If, at the time this Act enters into force, a country has not yet ratified or acceded to this Act, it shall be entitled, until the date of entry into force of its ratification or accession, only to a share of the amounts calculated on the basis of the Nice Act."

Comment

The fees referred to in Article 8 can be altered by the Assembly. Thus, the fees due according to the Stockholm Act may differ from those due according to the Nice Act and will doubtless be higher. The amounts paid will be divided among the countries concerned, in accordance with the system specified in paragraphs (5) and (6) of Article 8.

It does not appear justifiable that the countries which are bound by the Nice Act without having acceded to the Stockholm Act and which, by the fees paid by their nationals, have contributed less than the countries bound by the Stockholm Act, should be entitled to a share in the same proportions as the countries bound by the Stockholm Act.

The same idea underlies paragraph (4) and the corresponding provision (Article 8(4)) of the Nice Act.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/230
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENT TO THE BERNE CONVENTION (DOCUMENT S/1) BY THE DELEGATION OF THE NETHERLANDS

Article 13(1)

Retain the text of the Brussels Act.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/231
Subject (Union): Berne
Original: Spanish
Distribution: Main Committees II & IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

Draft Amendment submitted by the Delegations of Argentina, Mexico, and Uruguay

Berne Convention (S/9)

Article 20bis

"(2) All Member States may accede to the Protocol Regarding Developing Countries, which is additional to the present Act and does not form an integral part thereof."

Article 20 as well as any other provisions relating to the final clauses should be amended to the effect that the Protocol is to be the subject of separate ratification, and the Protocol itself should therefore include the final clauses that are customary in any autonomous international instrument.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: 28 June 1967 N° S/232
Subject (Union): Berne
Original: English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL OF THE DELEGATIONS OF AUSTRALIA, DENMARK, FINLAND, IRELAND, NORWAY, SWEDEN AND THE UNITED KINGDOM

Berne Convention (document S/1)

Article 6bis

At the end of paragraph (2) add a new sentence as follows:

"However, the legislation of a country of the Union may provide that some of the rights granted to the author by the preceding paragraph shall, after his death, not be maintained."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/233
Subject (Union): Berne
Original: English
Distribution: Restricted

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

MAIN COMMITTEE II

Working Group
for Article 1, paragraphs (a) and (e) of the
Protocol Regarding Developing Countries

REPORT AND PROPOSALS

The Working Group for paragraphs (a) and (e) of Article 1 of the proposed Protocol Regarding Developing Countries consisted of delegates from Czechoslovakia, France, India, Ivory Coast, Sweden, Tunisia and the United Kingdom. With Mr. Hesser (Sweden) as Chairman, it met on June 21 at 5 p.m., on June 23 at 9.30 a.m., on June 26 at 3 p.m., and again on June 28 at 2.30 p.m. At the last meeting the Delegate of Mexico attended as an observer.

I. The Proceedings Concerning Paragraph (a)

After the first exchange of views, it was agreed that a compromise should be sought which would assure to developing countries means whereby they can promptly obtain translation rights in protected works upon the payment of an equitable remuneration, while at the same time permitting an author or his successors in title to regain control of translation rights if he or they so desire.

In order to effectuate this compromise, paragraph (a) of Article should begin with the text borrowed from Article 5 of the Paris Act of 1896. This would make it possible for developing countries already members of the Union to restrict the exclusive right of translation, in the same way that newly adhering countries have been able to do in the past, but would also enable the author to maintain his exclusive right of translation.

The system envisaged by the Working Group would further include a compulsory license generally similar to that contained in the Universal Copyright Convention. However, in view of the necessity of early translation and publication within developing countries, while recognizing at the same time that a minimum period is required for an author to arrange for an authorized translation and its publication, it was unanimously agreed that the minimum period required for the issuance of such a license would be three years from the date of first publication. The Indian Delegate pointed out that it is understood that this period will not always be three years but in some cases longer, depending upon the determination of the competent authority of the developing

country concerned. The Tunisian Delegate proposed that the text should provide for a minimum period of three years, unless the national legislation of the country which is interested in translation provides for a longer minimum period. This proposal was unanimously adopted.

It was further unanimously agreed that wherever reference is made in paragraph (a) to "national language or languages" there should also be mention of official or regional language or languages, because some countries do not define national languages as such, and because, further, regional languages can also be of great importance.

Subparagraphs (viii) and (ix) of Article 1 (a) of document S/160 were also unanimously adopted. The Working Group thus recommended a system whereby a previously granted compulsory license would terminate in any given country from the date on which the author avails himself in that country of his exclusive right with respect to the language concerned, within the initial 10-year period from first publication. However, the compulsory licensee would continue to have the right to dispose of copies of the translation made prior to the termination of the compulsory license. If the author does not avail himself of his right of translation, this right would expire at the end of the 10-year period, and therefore compensation would cease to be payable.

It was further agreed that if the author avails himself of the exclusive translation right in the country concerned prior to the expiry of the 10-year period, and if thereafter the copies of the authorized translation become exhausted, then at such time the compulsory license provided for above may again be invoked.

The Indian Delegate requested an interpretation of the phrase "and been denied" as contained in the eighth line of the first unnumbered paragraph of paragraph (a) of S/1. It was unanimously agreed that a failure to reply to a request for translation rights constitutes a denial within the meaning of the phrase "and been denied".

The Tunisian Delegate requested an interpretation of the provision for domestic legislation to assure transmittal of compensation as contained in the third unnumbered paragraph of paragraph (a) of S/1. It was unanimously agreed that such transmittal would always be subject to any national currency regulation. Upon the express request of the Tunisian Delegate it was further agreed that the foregoing interpretation should be included in the Report of Main Committee II, and the Reporter of this Committee agreed to such inclusion.

The Working Group further considered proposals contained in documents S/146 and S/162. Both of these were unanimously rejected on the ground that the text should wherever possible adhere to the provisions of the Universal Copyright Convention relating to translation licenses.

II. The Proceedings Concerning Paragraph (e)

In addressing itself to the subject of reproduction and publica for educational purposes, after some discussion it was unanimously agreed that generally the same mechanism adopted for translation purposes in connection with paragraph (a) should be applied in this context as well. The Working Group concluded that this delicate balancing of interests, permitting as it does the recognition of the author's exclusive rights if he so elects, while also providing that if necessary to gain access to the work a compulsory license may be invoked based upon the payment of an equitable remuneration, repres a compromise eminently suited to the serious problem of reproduction for educational purposes in developing countries. It was further concluded that most of the specific provisions relating to translati under paragraph (a) should be equally applicable to reproductions fo educational purposes. However, certain changes in such provisions a necessary. For example, the ten-year period in which the author mus exercise translation rights is taken from the translation provisions of the Paris Act of 1896, and has no application to reproduction ri

Although the above compromise was unanimously accepted with respect to reproductions for exclusively educational purposes, the Delegates of India, Ivory Coast and Tunisia made the point that this would not entirely meet the needs of developing countries where the reproductions were to be utilized exclusively by schools and simila institutions. In this limited context, the aforesaid Delegates sta that developing countries find it necessary to reserve the right to impose further restrictions on reproduction rights, so that in some instances no remuneration whatsoever would be payable. In explain

this position, the Indian Delegate added: "The right to reserve is not the right to expropriate. If national authors are paid, foreign authors will be paid also." It was suggested that the French proposal contained in S/178 represented an appropriate formulation of such a further reservation, provided that an added reference be made to rural development centres. The Working Group voted to adopt S/178 with the foregoing added reference as an additional provision of paragraph (e). The Delegate of the United Kingdom, however, expressed the belief that equitable remuneration should in any event be payable; and said that it was therefore necessary for the United Kingdom to reserve its position in respect of this additional provision. The Delegates of Tunisia and the Ivory Coast questioned the necessity of including in the additional provision the last phrase, reading: "in connection with their pedagogical activities". However, these Delegates, as well as the remainder of the Working Group, agreed that the additional provision should not be applicable to non-pedagogical activities. It was agreed to retain the aforesaid phrase in the text, but to refer to the drafting committee the question of whether the intended meaning required inclusion of the phrase, or whether the term "exclusive" sufficiently expresses this meaning.

The question of importation restrictions was then discussed, and it was unanimously agreed that the type of importation provision applicable to compulsory licenses for translations under the Universal Copyright Convention should be applied separately both to the compulsory license for educational purposes and to the additional reservation referred to above.

The Working Group next considered the proposals relating to the subject under consideration contained in each of the following documents: S/127, S/148, S/149, S/162 and S/199. The Working Group voted to reject each of these proposals either because the substance of the proposals had already been adopted, or because, as to the remaining proposals, they were considered undesirable departures from the essence of the

compromise that had been agreed upon. With respect to paragraph 6 of S/199, it was voted to return this proposal to Main Committee II for the reason that it combined matters both within and without the competence of the Working Group. Finally, as to the proposal contained in Article 1 (f) of S/160, after some discussion the Delegates of India, Ivory Coast and Tunisia agreed to withdraw this proposal.

Proposed Text

(a) substitute for Article 8 of this Convention the following provisions:

(i) authors of literary and artistic works protected by this Convention, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works during the entire term of their right over the original work. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is to be claimed;

(ii) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, a translation of such work has not been published in that country into the national or official or regional language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to translate the work and publish the work so translated in any of the national or official or regional languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language in that country are out of print;

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(iii) if the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iv) due provision shall be made by domestic legislation to assure to the owner of the right of translation a compensation which is just and conforms to international standar to assure payment and transmittal of such compensation, an to assure a correct translation of the work;

(v) the original title and the name of the author of the work shall be printed on all copies of the published translatio The license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union if one o the national or official or regional languages of such oth country is the same language as that into which the work has been so translated, and if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoi conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee;

(vi) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vii) should, however, the author avail himself of the right und subparagraph (i) above during the term of ten years from t

date of first publication, the license shall terminate from the date on which the author publishes or causes to be published his translation in the country where the license has been granted, provided, however, that any copies of the translation already made before the license is terminated may continue to be sold;

(viii) should, however, the author not avail himself of the right under subparagraph (i) above during the said term of ten years, compensation under the non-exclusive license referred to above shall cease to be due for any uses made after the expiry of such term;

(ix) should the author be entitled to exclusive translation rights in a country by having published or caused to be published a translation of the work in such country within ten years from the date of first publication, but should thereafter during the term of the author's copyright in such work all editions of such authorized translation in such country be out of print, then at such time a non-exclusive license to translate the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (ii) to (vi) above.

(e) the provisions of Article 9(1) of this Convention shall be subject to the following provisions:

(i) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, such work has not been published in that country in the original form in which it was created, by the owner of the right of reproduction or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to reproduce and publish such work for exclusively educational purposes; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested and been denied, authorization by the proprietor of the right to reproduce and publish such work for exclusively educational purposes, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of such work in its said original form in that country are out of print;

(ii) if the owner of the right of reproduction cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of reproduction is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iii) due provision shall be made by domestic legislation to assure to the owner of the right of reproduction a

compensation which is just and conforms to international standards, to assure payment and transmittal of such compensation, and to assure an accurate reproduction of the work;

(iv) the original title and the name of the author of the work shall be printed on all copies of the published reproduction. The license shall be valid only for publication in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union for exclusively educational purposes if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee;

(v) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vi) should, however, the author avail himself of the right to reproduce the work, the license shall terminate from the date on which the author publishes or causes to be published his work in its said original form in the country where the license has been granted, provided, however, that any copies of the work already made before the license is terminated may continue to be sold;

(vii) should the author publish or cause his work to be published in its said original form in a country, but should thereafter during the term of the author's copyright in such work all authorized editions in such original form in such country be out of print, then at such tima a non-exclusive license to reproduce and publish the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (i) to (v)

above, but subject to the provisions of subparagraph (vi) above;

(viii) a reservation of the right to impose restrictions on the protection of literary and artistic works more extensive than those provided above in this paragraph (e) when the utilization of such works is intended for the exclusive use of scholastic or educational institutions, vocational training centres or rural development centers, in connection with their pedagogical activities; copies of a work published pursuant to the aforesaid reservation may be imported and sold in another country of the Union for utilization as aforesaid, if the domestic law in such other country has invoked a reservation pursuant to this sub-paragraph (viii), and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements;

(ix) the provisions of subparagraphs (i) to (viii) above are subject to the provisions of paragraph (a) above relating to translations, or, with respect to such countries as do not avail themselves of said paragraph (a), to Article 8 of this Convention.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/234
Subject (Union): Berne
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROTOCOL REGARDING DEVELOPING COUNTRIES

(DOCUMENT S/1)

PROPOSAL SUBMITTED BY THE DELEGATION OF THE IVORY COAST

Add the following names to the list of developing countries:

Botswana
Gambia
Ivory Coast
Kenya
Lesotho
Malawi
Zambia

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/235
Subject (Union): All Unions
Original: English-French
Distribution: Main Committees II & IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

MEMORANDUM OF THE SECRETARIAT TO THE JOINT MEETING OF MAIN COMMITTEES II AND IV CONTAINING A LIST OF THE PROBLEMS TO BE DISCUSSED

I. BERNE CONVENTION (Document S/9), Article 20bis: PROTOCOL REGARDING DEVELOPING COUNTRIES

(1) This Article proposes that the Protocol forms an integral part of the Stockholm Act of the Berne Convention.

(2) Note proposal of the Delegations of Argentina, Mexico, and Uruguay (Document S/231) and proposal of the Delegation of Israel (Document S/227).

(3) This Article has not been discussed in Main Committee IV.

II. BERNE CONVENTION (Document S/9), Article 25quater: ADMISSION OF THE APPLICATION OF RESERVATIONS MADE UNDER THE PROTOCOL REGARDING DEVELOPING COUNTRIES

(1) It is proposed in Document S/9/Corr.1 that this Article should be deleted.

(2) The Article has not been discussed in Main Committee IV.

(1) Paris Convention (Document S/3), Article 16quater, as amended by Document S/3/Corr.1.

The proposed text, as amended, reads as follows:

"After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention."

(2) Berne Convention (Document S/9), Article 28, as amended by Document S/9/Corr.1.

The proposed text, as amended, reads as follows:

"After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention."

(3) This Article has not been discussed by Main Committee IV, since it has been reserved pending the joint meeting with Main Committee II.

IV. APPLICATION OF EARLIER ACTS

(1) Paris Convention (Document S/3), Article 18, as amended by Document S/3/Corr.1.

(a) The proposed draft of Article 18, as amended by the Corrigendum, does not contain the initially proposed paragraph (3) regarding the contractual relations between countries bound by the Stockholm Act and countries bound by earlier Acts.

In this form the rules concerning the application of earlier Acts would, in essence, remain the same as under the Lisbon Act (Article 18, paragraphs (3) to (6)).

(b) Note proposal of the United Kingdom Delegation (Document S/95) to amend Article 18(3) as follows:

"Countries outside the Union which accede to the present Act shall apply the present Act in their relations with all other countries of the Union."

(c) This Article has not been discussed by Main Committee IV, since it has been reserved pending the joint meeting with Main Committee II.

(2) Berne Convention (Document S/9), Article 27, as amended by Document S/9/Corr.1.

(a) The proposed draft of Article 27, as amended by the Corrigendum, consists of a single paragraph containing paragraph (1) of the S/9 text and the following additional sentence:

"The Acts previously in force shall continue to be applicable, in their entirety or to the extent that the present Act does not replace them by virtue of the preceding sentence, in relations with countries which do not ratify or accede to this Act."

Since paragraphs (2) and (3) of the S/9 text have been deleted, the Article does not contain a provision regarding the contractual relations between countries bound by the Stockholm Act and countries bound by earlier Acts.

(b) Note proposal of the United Kingdom Delegation (Document S/95) to amend Article 27 as follows:

"(1) The obligations of a country ratifying or acceding to this Act shall,

as regards all other countries of the Union, be governed by those provisions of this Act by which, in accordance with Article 25, it is bound.

(2) The obligations of a country of the Union to which the present Act does not apply or, in accordance with Article 25, does not apply in its entirety shall, as regards all other countries of the Union, continue to be governed by the most recent Act to which it is a party to the extent that they are not replaced by provisions of this Act accepted by that country."

(c) This Article has not been discussed by Main Committee IV since it has been reserved pending the joint meeting with Main Committee II.

(3) Special Agreements (Documents S/4 to S/8)

(a) Nice Agreement (International Classification of Goods and Services), (Document S/7), Article 8bis.

Discussion of this Article was reserved by Main Committee IV until final decision on Article 18 of the Paris Convention (Document S/3).

(b) Lisbon Agreement (Appellations of Origin), (Document S/8), Article 13.

Discussion of this Article was reserved by Main Committee IV until final decision on Article 18 of the Paris Convention (Document S/3).

V. PROPOSAL OF THE UNITED KINGDOM DELEGATION IN DOCUMENT S/149 No.4 TO INSERT A TERRITORIAL CLAUSE INTO THE PROTOCOL

It is proposed to add a new Article 1B as follows:

"13. (1) Any country which has made a declaration or notification under Article 26(1) in respect of territories for whose external relations that country is responsible may [with the prior agreement of the Executive Committee of the Berne Union], notify the Director General that the provisions of this Protocol shall apply to all or part of those territories and such notification shall specify which of the reservations permitted by this Protocol shall apply in respect of all or part of those territories.

(2) A notification made under this Article shall take effect [three months] after its receipt by the Director General."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 28, 1967 N° S/236
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INTELLECTUAL PROPERTY

Article 18 of the Paris Convention

Article 27 of the Berne Convention

PROPOSAL BY THE DELEGATIONS OF FRANCE AND ITALY

In view of the distribution as Conference documents of the corrigenda to documents S/3 and S/9, and in particular the interpretation of Article 27 of the Berne Convention given in S/9/Corr.1, the Delegations of France and Italy, aware of the importance of such an interpretation, feel obliged to request that the texts originally proposed in documents S/3 and S/9 should be used as a basis of discussion for the articles in question.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 29, 1967 N° S/237
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSED AMENDMENT TO THE BERNE CONVENTION (DOCUMENT S/1)
BY THE DELEGATIONS OF BELGIUM, LUXEMBOURG AND THE NETHERLANDS

ADDITIONAL PROTOCOL

to the Berne Convention, as revised at Stockholm, on July ..., 1967, concerning the application of that Convention to the works of the international organizations

The countries of the Union becoming parties to this Protocol have agreed to the following provisions:

Article 1

The copyright protection provided by the Berne Convention of September 9, 1886, and its successive revisions, shall apply to the works of the United Nations and the Specialized Agencies in relationship therewith, and to those international intergovernmental organizations which either have their headquarters in a country of the Union, or in which a majority of members are countries of the Union.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

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Subject (Union): Berne
Original: English - French
Distribution: Restricted - Drafting Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

Texts prepared by the Secretariat for the Drafting Committee

Article 1

The countries to which this Convention applies constitute a Union for the protection of authors' copyright in their literary and artistic works.

Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated those expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated those expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in countries of the Union to prescribe that works in general or any specified

categories of works shall not be considered as having been made until they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7, paragraph (4), of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in other countries of the Union only to such protection as shall be granted to designs and models in such countries, either in special legislation introduced for that purpose or under the protection granted to literary or artistic works.

(8) The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of information.

Article 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author.

(3) It shall also be a matter for legislation in the countries of the Union to permit the reproduction by the press or the broadcasting of articles on current economic, political or religious topics, unless the reproduction or the broadcasting thereof is expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

Article 10

(1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practise, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

(2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or recordings for teaching, provided such utilization is compatible with fair practise.

(3) The source and the name of the author, if his name appears therein, shall be mentioned in the quotations and utilizations referred to in the preceding paragraphs.

Article 10bis

It shall be a matter for legislation in countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, it shall be permissible, to the extent justified by the informatory purpose, to reproduce and communicate to the public literary or artistic works seen or heard in the course of the event.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 30, 1967 N° S/239
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

PROPOSAL SUBMITTED BY THE WORKING GROUP ON ARTICLE 2bis, PARAGRAPH (2)

Redraft paragraph (2) of Article 2bis as follows:

"It shall also be a matter for legislation in the countries of the Union to determine the conditions under which lectures, addresses and other works of the same nature may be reproduced by the press, broadcast, communicated by wire to the public and made the subject of the public communications envisaged in Article 11bis, paragraph (1) of this Convention, when such use is justified by the informatory purpose."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
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Date: June 30, 1967 N° S/240
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

PROPOSAL BY THE WORKING GROUP ON FOLKLORE

Add a new paragraph (3) to Article 15 as follows:

"(3)(a) In the case of unpublished works for which the identity of the author is unknown, but for which there is every ground to presume that that author is a national of a country of the Union or has his habitual residence in such country, it shall be a matter for legislation in that country to designate the competent authority who shall represent this author and shall be entitled to protect and enforce his rights in countries of the Union.

(b) Countries of the Union which make such designation under the terms of this provision shall notify ... by means of a written declaration giving full information concerning the authority thus designated. The ... shall at once communicate this declaration to all other countries of the Union."

BIRPI
TED INTERNATIONAL BUREAUX
FOR THE PROTECTION
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

Texts prepared by the Secretariat for the Drafting Committee*)

Article 2bis

(1) It shall be a matter for legislation in the countries of the Union to exclude, partially or wholly, from the protection provided by the preceding Article political discourse and discourse as a part of legal proceedings.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which lectures, addresses and other works of the same nature may be reproduced by the press, broadcast, communicated by wire to the public and made the subject of the public communications envisaged in Article 11bis, paragraph (1), of this Convention, when such use is justified by the informatory purpose.

(3) Nevertheless, the author alone shall have the right of making a collection of his works mentioned in the above paragraphs.

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*) In the Annex to this document, are reproduced the texts already discussed by the Drafting Committee.

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Article 7

the life of the author and fifty years after his death.

(2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or failing such an event within fifty years from the making of such a work, fifty years after the making.

(3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been made available to the public with the consent of the author. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works of which it is reasonable to presume that their author has been dead for fifty years.

(4) It shall be a matter for legislation in countries of the Union to determine the term of protection of photographic works and that of works of applied arts in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

Article 7 (continued)

(5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4) shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the 1st January of the year following the death or such event.

(6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs. However, the countries of the Union bound by the Rome Act of this Convention, that have in their national legislation in force at the time of signature of the present Act provisions granting a shorter term of protection than those provided for in the preceding paragraphs shall have the right to maintain them when acceding to or ratifying the present Act.

(7) In any case, the term shall be governed by the law of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

Article 7bis

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

Article 11

(1) Subject to the provisions of Article 11bis, the authors of dramatic, dramatico-musical and musical works shall enjoy the exclusive right of authorizing:

Article 11 (continued)

(i) the public performance of their works, including the public performance of these works by means of instruments capable of reproducing them mechanically;

(ii) any communication to the public of the performance of their works.

(2) Authors of dramatic or dramatico-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 11bis

(1) Authors of literary and artistic works shall have the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

(2) It shall be a matter for legislation in the countries of the Union to determine the conditions under which the rights mentioned in the preceding paragraph may be exercised, but these conditions shall apply

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Article 11bis (continued)

only in the countries where they have been prescribed. They shall not in any circumstances be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) In the absence of any contrary stipulation, permission granted in accordance with paragraph (1) of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast. It shall, however, be a matter for legislation in the countries of the Union to determine the regulations for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

Article 11ter

Subject to the provisions of Article 11bis, authors of literary works shall enjoy the exclusive right of authorizing:

(i) the public recitation of their works including the public recitation of these works by means of instruments capable of reproducing them mechanically;

(ii) any communication to the public of the recitation of their works.

Article 12

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right, granted to authors of musical works, of authorizing the recording of such works, including, as the case may be, the accompanying words, by instruments capable of reproducing them mechanically, but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the author's right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) Recordings of musical works made in a country of the Union in accordance with Article 13, paragraph (3), of the Convention signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until December 31 19...

(3) Recordings made in accordance with paragraphs (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

Article 14

(1) Authors of literary or artistic works shall have the exclusive right of authorizing:

(i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;

Article 14 (continued)

(ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.

(2) The adaptation into any other artistic form of cinematographic productions derived from literary or artistic works shall, without prejudice to the authorization of their authors, remain subject to the authorization of the author of the original work.

(3) The provisions of Article 13, paragraph (1), shall not apply.

Article 14bis

(1) Without prejudice to the copyright in any work which might have been adapted or reproduced, a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

(2)(a) Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

(b) However in the countries of the Union which by legislation include among such owners of copyright authors who have brought contributions to the making of a cinematographic work, if they have undertaken to bring such contributions to the making of the cinematographic work, they may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting, any other communication to the public, subtitling and dubbing of the texts, of the cinematographic work.

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Article 14bis (continued)

(c) The form of the undertaking referred to above which may be something having the same force shall be governed by the legislation of the country of the Union where the maker of the cinematographic work has his headquarters or habitual residence.

(d) By "contrary or special stipulation" is meant any restrictive condition appropriate to the aforesaid undertaking.

(3) Unless the national legislation provides to the contrary, the provision of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works, specially created in the making of the cinematographic work.

Article 14ter

(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

Article 15

(1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.

(2) In the case of anonymous and pseudonymous works, other than those referred to in the preceding paragraph, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and in this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply if and when the author reveals his identity and establishes his claim to authorship of the work.

(3)(a) In the case of unpublished works for which the identity of the author is unknown, but for which there is every ground to presume that that author is a national of a country of the Union or has his habitual residence in such country, it shall be a matter for legislation in that country to designate the competent authority who shall represent this author and shall be entitled to protect and enforce his rights in countries of the Union.

(b) Countries of the Union which make such designation under the terms of this provision shall notify the ..... by means of a written declaration giving full information concerning the authority thus

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Article 15 (continued)

designated. The ... shall at once communicate this declaration to all other countries of the Union.

(4) The person or corporate body whose name appears on a cinematographic work in the manner in current use shall be presumed to be the maker of the said work, until the contrary be proved.

Article 16

(1) Infringing copies of a work may, upon request of the owner of copyright in the said work, be seized by the competent authorities of any country of the Union where the work enjoys legal protection.

(2) In these countries the seizure may, as the case may be, also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.

(3) The seizure shall take place in accordance with the legislation of each country.

Article 17

The provisions of this Convention cannot in any way prejudice the right of each country of the Union to control or to prohibit by legislation or other similar measures, the distribution, performance, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

Article 18

(1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.

Article 18 (continued)

(2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew.

(3) The application of this principle shall be subject to any provisions contained in special Conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle.

(4) The above provisions shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservations.

Article 19

The provisions of this Convention shall not preclude the making of a claim to the benefit of any greater protection which may be granted by legislation in a country of the Union.

Article 20

The Governments of the countries of the Union reserve the right to enter into special Agreements among themselves, in so far as such Agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing Agreements which satisfy these conditions shall remain applicable.

I

ANNEX

to Document S/241

BERNE CONVENTION

Being equally animated by the desire to protect in as effective and uniform a manner as possible the rights of authors in their literary and artistic works,

Have resolved to revise and to complete the Act signed at Berne on September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, and revised at Brussels on June 26, 1948.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

Article 1

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain,

whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7, paragraph (4), of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

(8) The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of press information.

Article 3

(1) The protection of this Convention shall apply to

(a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;

(b) authors who are not nationals of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purpose of this Convention, be assimilated to nationals of that country.

(3) The expression "published works" means works published with the consent of their authors whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(4) A work shall be considered as having been published simultaneously in several countries if it has been published

in two or more countries within thirty days of its first publication.

Article 4

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to

(a) authors of cinematographic works, the maker of which has his headquarters or habitual residence in one of the countries of the Union;

(b) authors of works of architecture, erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

Article 5

(1) Authors shall enjoy, in respect of such works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the

author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.

(3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.

(4) The country of origin shall be considered to be

(a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection;

(b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;

(c) in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:

(i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country and

(ii) when these are works of architecture

artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

Article 6

(1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the other country and are not habitually resident in one of the countries of the Union. If the country of first publication avails itself of this right, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.

(2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.

(3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the ---- by a written declaration specifying the countries in regard to which protection is restricted, and

the restrictions to which rights of authors who are nationals of those countries are subjected. The ---- shall immediately communicate this declaration to all the countries of the Union.

Article 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author.

(3) It shall also be a matter for legislation in the countries of the Union to permit the reproduction by the press or the broadcasting of articles on current economic, political or religious topics, in cases in which the reproduction or the broadcasting thereof is not expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation shall be determined by the legislation of the country where protection is claimed.

Article 10

(1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public,

provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

(2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.

(3) Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source and of the name of the author, if it appears thereon.

Article 10bis

It shall be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3, 1967 N° S/242
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

MAIN COMMITTEE II

Working Group for Article 1, paragraphs (a) and (e) of the Protocol Regarding Developing Countries

Report

on the meeting held on July 1, 1967

Following the decision taken by Main Committee II on June 29, the Working Group met again on July 1 at 9 a.m., with Mr. Hesser (Sweden) as Chairman. The Delegates from France, India, Ivory Coast, Sweden, Tunisia and the United Kingdom took part in this meeting, as well as Observers from Australia, Ireland and Mexico.

The purpose set to the Working Group by Main Committee II was to try to find a new formula for paragraph (e)(viii), on the basis of a new proposal made by Australia or on any other basis representing a compromise.

Two written proposals were submitted for discussion, the one by the Australian Delegation and the other by the Tunisian Delegation. A third proposal was made orally during the meeting by the Delegation of the United Kingdom.

The discussion was mainly centered around the interpretation of the various terms considered for inclusion in a compromise formula,

and the historical background of the proposals contained in docu
As the divergence of views expressed by various delegations prov
be insurmountable, no unanimous agreement could be reached.

At the request of the Tunisian Delegation, its proposal as
jointly by the Indian and Tunisian Delegations, was put to the v
and adopted by 3 votes against 2 and 1 abstention.

The proposal reads as follows:

1. Replace subparagraph (viii), which is too long and too confused according to some Delegations, by the present text of paragraph (e) in document S/1 (Sweden/BIRPI) of the Progr and include in the general report an interpretation of the word "restrict", saying that in no case does this mean treat other than national treatment.

2. Accept subparagraphs (i) to (vii) but deleting in (i) of document S/233 the phrase "for exclusively educational purposes."

3. Make a new paragraph (f) of subparagraph (viii).

No vote has been taken on the proposal of the Australian Delegation.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
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Date: July 2, 1967 N° S/244 3
Subject (Union): Berne
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL OF THE UNITED KINGDOM DELEGATION

Protocol Regarding Developing Countries

Amend Article 1(e) to read:

"reserve the right, exclusively for educational purposes, to permit the reproduction of literary and artistic works, provided due provision shall be made by domestic legislation to assure:

(i) to the author, a compensation which is just and conforms to international standards, and

(ii) payment and transmittal of such compensation, subject to national currency legislation."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Berne Convention (document S/1)

Protocol Regarding Developing Countries

Text prepared by the Secretariat for the Drafting Committee

Article 1

Any developing country mentioned in the list of developing countries annexed to Resolution 1897(XVIII) adopted by the General Assembly of the United Nations and which is reproduced in Annex I to this Protocol, or in the list figuring in Annex II to this Protocol, or which has been or may be subsequently designated as a developing country by the General Assembly of the United Nations and which ratifies or accedes to the Act to which this Protocol is annexed and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in the Act, may, by a notification deposited with the ....., at the time of ratification or accession, comprising Article 20bis of the Act declare that it will, for a period of the first ten years during which it is a party thereto, avail itself of any or all of the following reservations:

(a) substitute for Article 8 of this Convention the following provisions:

(i) authors of literary and artistic works protected by this Convention, or their lawful representatives, shall enjoy in the other countries of the Union the exclusive right of making or authorizing the translation of their works during the entire term of their right over the original work. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is to be claimed;

(ii) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, a translation of such work has not been published in that country into the national or official or regional language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to translate the work and publish the work

so translated in any of the national or official or regional languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language in that country are out of print;

(iii) if the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iv) due provision shall be made by domestic legislation to assure to the owner of the right of translation a compensation which is just and conforms to international standards, to assure payment and transmittal of such compensation, and to assure a correct translation of the work;

(v) the original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union if one of the national or official or regional languages of such other country is the same language as that into which the work has been so translated, and if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee;

(vi) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vii) should, however, the author avail himself of the right under subparagraph (i) above during the term of ten years from the date of first publication, the license shall terminate from the date on which the author publishes or causes to be published his translation in the country where the license has been granted, provided, however, that any copies of the translation already made before the license is terminated may continue to be sold;

(viii) should, however, the author not avail himself of the right under subparagraph (i) above during the said term of ten years, compensation under the non-exclusive license referred to above shall cease to be due for any uses made after the expiry of such term;

(ix) should the author be entitled to exclusive translation rights in a country by having published or caused to be published a translation of the work in such country within ten years from the date of first publication, but should thereafter during the term of the author's copyright in such work all editions of such authorized translation in such country be out of print, then at such time a non-exclusive license to translate the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (ii) to (vi) above.

(b) substitute for the term of fifty years referred to in paragraphs (1), (2) and (3) of Article 7 of this Convention a different term, provided that it shall not be less than twenty-five years; and substitute for the term of twenty-five years referred to in paragraph (4) of the said Article a different term, provided that it shall not be less than ten years;

(c) substitute for paragraphs (1) and (2) of Article 11bis of this Convention the following provisions:

(i) authors of literary and artistic works shall enjoy the exclusive right of authorizing the communication of their works to the public by radio-diffusion;

(ii) the national legislations of the countries of the Union may regulate the conditions under which the right mentioned in the preceding paragraph shall be exercised, but the effect of those conditions will be strictly limited to the countries which have put them in force. Such conditions shall not in any case prejudice the moral right (droit moral) of the author, nor the right which belongs to the author to obtain an equitable remuneration which shall be fixed, failing agreement, by the competent authority. However, this paragraph shall not apply so as to permit the perform in public for profit-making purposes, otherwise than on payment of equitable remuneration, fixed, in the absence of agreement, by competent authority, of broadcasts of literary and artistic works.

(d) (reserved)

Article 2

Any country which no longer needs to maintain any or all the reservations made in accordance with Article 1 of this Protocol shall withdraw such reservation or reservations by notification deposited with the .....

Article 3

Any country, which has made reservations in accordance with Article 1 of this Protocol, and which at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still does not consider itself in a position to withdraw the reservations under the said Article 1, may continue to maintain any or all the reservations until it accedes to the Act adopted by the next Revision Conference of this Convention.

Article 4

Any country which, according to a decision of the General Assembly of the United Nations, ceases to be considered as a developing country, shall no longer be entitled to avail itself of any of the reservations provided for by this Protocol. This fact shall be notified by ..... to the country concerned, and to all the countries of the Union.

ANNEX I

Countries listed as developing countries in the annex to Resolution 1897 (XVIII) adopted by the General Assembly of the United Nations at its Eighteenth Session on November 13, 1963:

1. Afghanistan
2. Algeria
3. Argentina
4. Bolivia
5. Brazil
6. Burma
7. Burundi
8. Cambodia
9. Cameroon
10. Central African Republic
11. Ceylon
12. Chad
13. Chile
14. Colombia
15. Congo (Brazzaville)
16. Congo (Democratic Republic)
17. Costa Rica
18. Cyprus
19. Dahomey
20. Dominican Republic
21. Ecuador
22. El Salvador
23. Ethiopia
24. Gabon
25. Ghana
26. Guatemala
27. Guinea
28. Haiti

29. Honduras
30. India
31. Indonesia
32. Iran
33. Iraq
34. Jamaica
35. Jordan
36. Kuwait
37. Laos
38. Lebanon
39. Liberia
40. Libya
41. Madagascar
42. Malaysia
43. Mali
44. Mauritania
45. Mexico
46. Morocco
47. Nepal
48. New Zealand
49. Nicaragua
50. Niger
51. Nigeria
52. Pakistan
53. Panama
54. Paraguay
55. Peru
56. Philippines
57. Rwanda
58. Saudi Arabia
59. Senegal
60. Sierra Leone
61. Somalia
62. Sudan
63. Syria

64. Thailand
65. Togo
66. Trinidad and Tobago
67. Tunisia
68. Uganda
69. United Arab Republic
70. United Republic of Tanzania
71. Upper Volta
72. Uruguay
73. Venezuela
74. Yemen
75. Yugoslavia

ANNEX II

Developing countries added to the list figuring in Annex I

1. Botswana
2. Gambia
3. Ivory Coast
4. Kenya
5. Lesotho
6. Malawi
7. Zambia

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3, 1967 N° S/245
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL MADE BY THE DELEGATION OF ITALY

Berne Convention (Document S/1)

Article 25, paragraph (3)

Add to paragraph (3) of Article 25 the following sentence:

"Countries of the Union not enjoying this right [of reservation] shall be entitled to apply the principle of equivalent protection in regard to the right of translation of works having as their country of origin a country which enjoys that right."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3,1967 N° S/246
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

WORKING GROUP OF MAIN COMMITTEES II AND IV

Proposal by the Delegation of Senegal

Document S/9

Insert in Article 25 the following paragraph (1)(b bis):

"Any country of the Union may, without being bound by the Stockholm Act in accordance with the foregoing provisions, ratify the Protocol Regarding Developing Countries or accede to it."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3, 1967 N° S/247
Subject (Union): Berne
Original: French and English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

JOINT PROPOSAL MADE BY THE DELEGATIONS OF
AUSTRALIA, AUSTRIA, DENMARK, GERMANY (FED.REP.)
FINLAND, NORWAY, SWEDEN, UNITED KINGDOM

BERNE CONVENTION (DOCUMENT S/1)

Article 6bis

At the end of paragraph (2) add a new sentence as follows:

"However, those countries whose legislation at the moment of their ratification of or accession to this Act, does not provide for the complete protection after the death of the author of the rights set out in the preceding paragraph, may provide that some of these rights may, after his death, cease to be maintained."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3, 1967 N° S/248
Subject (Union): Berne
Original: French
Distribution: Main Committee I

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

REPORT OF THE DRAFTING COMMITTEE REGARDING THE RIGHT OF TRANSLATION

(Article 8 of the Berne Convention - Document S/1)

At its 17th meeting (S/I/PV/17), the Main Committee decided to entrust the Drafting Committee with the task to find, within Article 8 relating to the right of translation, a formula which would make it possible to state in the Convention that the exceptions to the right of reproduction are equally applicable when reproduction bears not only on the original work but also on its translation.

After discussion, the Drafting Committee was of the opinion that:

(1) In relation to the provisions of Article 2bis, paragraph (2), Article 9, paragraph (3) (the former paragraph (2) of the Brussels text), Article 10, paragraph (1) and article 10, paragraph (2), it seems normal that the exceptions introduced into the provisions for the right of reproduction should also apply to the right of translation, that is to say, should also apply to the translated version of the work.

(2) In relation to Article 9, paragraph (2) (new), the problem presents certain difficulties but it would appear possible to consider that there is likewise extension to the translated version of the work only if the conditions provided in paragraph (2) are also fulfilled for that translated version.

(3) In relation to Article 10bis, Article 11bis and article 13, the question remains open, by virtue of the fact that those provisions do not refer solely to the right of reproduction but also to the right of broadcasting.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 3, 1967 N° S/249
Subject (Union): Berne
Original: English/French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Berne Convention (document S/1)

Protocol Regarding Developing Countries

Text prepared by the Secretariat after discussion of Article 1(a), (d) and (e) by the Working Group

Article 1

Any developing country mentioned in the list of developing countries annexed to Resolution 1897 (XVIII) adopted by the General Assembly of the United Nations and which is reproduced in Annex I to this Protocol, or in the list figuring in Annex II to this Protocol, or which has been or may be subsequently designated as a developing country by the General Assembly of the United Nations and which ratifies or accedes to the Act to which this Protocol is annexed and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in the Act, may, by a notification deposited with the ....., at the time of ratification or accession, comprising Article 20bis of the Act declare that it will, for a period of the first ten years during which it is a party thereto, avail itself of any or all of the following reservations:

(a) substitute for Article 8 of this Convention the following provisions:

(i) authors of literary and artistic works protected by this Convention, or their lawful representatives, shall enjoy in the other countries of the Union the exclusive right of making or authorizing the translation of their works during the entire term of their right over the original work. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is to be claimed;

(ii) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, a translation of such work has not been published in that country into the national or official or regional language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to translate the work and publish the work so translated in any of the national or official or regional languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language in that country are out of print;

(iii) if the owner of the right of translation cannot be found then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iv) due provision shall be made by domestic legislation to assure to the owner of the right of translation a just compensation, to assure payment and transmittal of such compensation subject to national currency regulations, and to assure a correct translation of the work;

(v) the original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union if one of the national or official or regional languages of such other country is the same language as that into which the work has been so translated, and if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee;

(vi) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vii) should, however, the author avail himself of the right under subparagraph (i) above during the term of ten years from the date of first publication, the license shall terminate from the date on which the author publishes or causes to be published his translation in the country where the license has been granted, provided, however, that any copies of the translation already made before the license is terminated may continue to be sold;

(viii) should, however, the author not avail himself of the right under subparagraph (i) above during the said term of ten years, compensation under the non-exclusive license referred to above shall cease to be due for any uses made after the expiry of such term;

(ix) should the author be entitled to exclusive translation rights in a country by having published or caused to be published a translation of the work in such country within ten years from the date of first publication, but should thereafter during the term of the author's copyright in such work all editions of such authorized translation in such country be out of print, then at such time a non-exclusive license to translate the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (ii) to (vi) above.

(b) substitute for the term of fifty years referred to in paragraphs (1), (2) and (3) of Article 7 of this Convention a different term, provided that it shall not be less than twenty-five years; and substitute for the term of twenty-five years referred to in paragraph (4) of the said Article a different term, provided that it shall not be less than ten years;

(c) substitute for paragraphs (1) and (2) of Article 11bis of this Convention the following provisions:

(i) authors of literary and artistic works shall enjoy the exclusive right of authorizing the communication of their works to the public by radio-diffusion;

(ii) the national legislations of the countries of the Union may regulate the conditions under which the right mentioned in the preceding paragraph shall be exercised, but the effect of those conditions will be strictly limited to the countries which have put them in force. Such conditions shall not in any case prejudice the moral right (droit moral) of the author, nor the right which belongs to the author to obtain an equitable remuneration which shall be fixed, failing agreement, by the competent authority.

However, this paragraph shall not apply so as to permit the performance in public for profit-making purposes, otherwise than on payment of equitable remuneration, fixed, in the absence of agreement, by competent authority, of broadcasts of literary and artistic works.

(d) the provisions of Article 9(1) of this Convention shall be subject to the following provisions:

(i) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, such work has not been published in that country in the original form in which it was created, by the owner of the right of reproduction or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to reproduce and publish such work for educational or cultural purposes; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to reproduce and publish such work for educational or cultural purposes; or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of such work in its said original form in that country are out of print;

(ii) if the owner of the right of reproduction cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of reproduction is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iii) due provision shall be made by domestic legislation to assure to the owner of the right of reproduction a just compensation, to assure payment and transmittal of such compensation, subject to national currency regulations, and to assure an accurate reproduction of the work;

(iv) the original title and the name of the author of the work shall be printed on all copies of the published reproduction. The license shall be valid only for publication in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union for educational or cultural purposes if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee;

(v) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vi) should, however, the author avail himself of the right to reproduce the work, the license shall terminate from the date on which the author publishes or causes to be published his work in its said original form in the country where the license has been granted, provided, however, that any copies of the work already made before the license is terminated may continue to be sold;

(vii) should the author publish or cause his work to be published in its said original form in a country, but should thereafter during the term of the author's copyright in such work all authorized editions in such original form in such country be out of print, then at such time a non-exclusive license to reproduce and publish the work may be obtained from the competent authority in the same mammer and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (i) to (v) above, but subject to the provisions of subparagraph (vi) above;

(e) reserve the right, exclusively for teaching study and research in all fields of education, to restrict the protection of literary and artistic works, provided due provision shall be made by domestic legislation to assure to the author a compensation which conforms to standards of payment made to national authors; the payment and transmittal of such compensation shall be subject to national currency regulations.

Article 2

Any country which no longer needs to maintain any or all the reservations made in accordance with Article 1 of this Protocol shall withdraw such reservation or reservations by notification deposited with the .....

Article 3

Any country, which has made reservations in accordance with Article 1 of this Protocol, and which at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still does not consider itself in a position to withdraw the reservations under the said Article 1, may continue to maintain any or all the reservations until it accedes to the Act adopted by the next Revision Conference of this Convention.

Article 4

Any country which, according to a decision of the General Assembly of the United Nations, ceases to be considered as a developing country, shall no longer be entitled to avail itself of any of the reservations provided for by this Protocol. This fact shall be notified by ..... to the country concerned, and to all the countries of the Union.

ANNEX I

Countries listed as developing countries in the annex to Resolution 1897 (XVIII) adopted by the General Assembly of the United Nations at its Eighteenth Session on November 13, 1963:

1. Afghanistan
2. Algeria
3. Argentina
4. Bolivia
5. Brazil
6. Burma
7. Burundi
8. Cambodia
9. Cameroon
10. Central African Republic
11. Ceylon
12. Chad
13. Chile
14. Colombia
15. Congo (Brazzaville)
16. Congo (Democratic Republic)
17. Costa Rica
18. Cyprus
19. Dahomey
20. Dominican Republic
21. Ecuador
22. El Salvador
23. Ethiopia
24. Gabon
25. Ghana
26. Guatemala
27. Guinea
28. Haiti
29. Honduras
30. India
31. Indonesia
32. Iran
33. Iraq
34. Jamaica
35. Jordan
36. Kuwait
37. Laos
38. Lebanon
39. Liberia
40. Libya
41. Madagascar
42. Malaysia
43. Mali
44. Mauritania
45. Mexico
46. Morocco
47. Nepal
48. New Zealand
49. Nicaragua
50. Niger
51. Nigeria
52. Pakistan
53. Panama
54. Paraguay
55. Peru
56. Philippines
57. Rwanda
58. Saudi Arabia
59. Senegal
60. Sierra Leone
61. Somalia
62. Sudan
63. Syria
64. Thailand
65. Togo
66. Trinidad and Tobago
67. Tunisia
68. Uganda
69. United Arab Republic
70. United Republic of Tanzania
71. Upper Volta
72. Uruguay
73. Venezuela
74. Yemen
75. Yugoslavia

ANNEX II

Developing countries added to the list figuring in Annex I

1. Botswana
2. Gambia
3. Ivory Coast
4. Kenya
5. Lesotho
6. Malawi
7. Zambia

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION

PROTOCOL REGARDING DEVELOPING COUNTRIES

Addendum to Document S/249

Add to Article 1, paragraph (e):

; copies of a work published pursuant to the aforesaid reservation may be imported and sold in the same language in another country of the Union for purposes as aforesaid if the domestic law in such other country has invoked a reservation pursuant to this paragraph (e), and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements.

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

1er juillet 1967
Date: July 1, 1967 N° S/250 *
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CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967
INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROJET DU TEXTE
DE LA
CONVENTION INSTITUANT

L'ORGANISATION MONDIALE DE LA PROPRIETE INTELLECTUELLE

présenté par le
Comité de rédaction de la Commission principale V
(Président : M. L.Kellberg)

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DRAFT OF THE TEXT
OF THE
CONVENTION ESTABLISHING
THE

WORLD INTELLECTUAL PROPERTY ORGANIZATION

presented by the
Drafting Committee of Main Committee V
(Chairman: Mr. L. Kellberg)

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THE CONTRACTING PARTIES,

Desiring to contribute to better understanding and cooperation among States for their mutual benefit on the basis of respect for their sovereignty and equality,

Desiring, in order to encourage creative activity, to promote the protection of intellectual property throughout the world,

Desiring to modernize and render more efficient the administration of the Unions established in the fields of the protection of industrial property and the protection of literary and artistic works, while fully respecting the independence of each of the Unions,

AGREE AS FOLLOWS:

ARTICLE 1: ESTABLISHMENT OF THE ORGANIZATION

The World Intellectual Property Organization is hereby established.

ARTICLE 2: DEFINITIONS

For the purposes of this Convention:

(i) "Organization" shall mean the World Intellectual Property Organization (WIPO);

(ii) "International Bureau" shall mean the International Bureau of Intellectual Property;

(iii) "Paris Convention" shall mean the Convention for the Protection of Industrial Property signed on March 20, 1883, including any of its revisions;

(iv) "Berne Convention" shall mean the Convention for the Protection of Literary and Artistic Works signed on September 9, 1886, including any of its revisions;

(v) "Paris Union" shall mean the International Union established by the Paris Convention;

(vi) "Berne Union" shall mean the International Union established by the Berne Convention;

(vii) "Unions" shall mean the Paris Union, the Special Unions and Agreements established in relation with that Union, the Berne Union, and any other international arrangement designed to promote the protection of intellectual property whose

/ARTICLE 2: DEFINITIONS, continued/

administration is assumed by the Organization according to Article 4(iii);

(viii) "intellectual property" shall include the rights relating to:

- literary, artistic and scientific works,
- inventions in all fields of human endeavor,
- scientific discoveries,
- industrial designs,
- trademarks, service marks, and commercial names and designations,
- performances of performing artists, phonograms, and broadcasts,
- protection against unfair competition,

and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

ARTICLE 3: OBJECTIVES OF THE ORGANIZATION

The objectives of the Organization are:

(i) to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization,

(ii) to ensure administrative cooperation among the Unions.

ARTICLE 4: FUNCTIONS

In order to attain the objectives described in Article 3, the Organization, through its appropriate organs, and subject to the competence of each of the Unions:

(i) shall promote the development of measures designed to facilitate the efficient protection of intellectual property throughout the world and to harmonize national legislations in this field;

(ii) shall perform the administrative tasks of the Paris Union, the Special Unions established in relation with that Union, and the Berne Union;

(iii) may agree to assume, or participate in, the administration of any other international agreement designed to promote the protection of intellectual property;

(iv) shall encourage the conclusion of international agreements designed to promote the protection of intellectual property;

(v) shall offer its cooperation to States requesting legal-technical assistance in the field of intellectual property;

/ARTICLE 4: FUNCTIONS, contd/

(vi) shall assemble and disseminate information concerning the protection of intellectual property, carry out and promote studies in this field, and publish the results of such studies;

(vii) shall maintain services facilitating the international protection of intellectual property and, where appropriate, provide for registration in this field and the publication of the data concerning the registrations;

(viii) shall take all other appropriate action.

ARTICLE 5: MEMBERSHIP

(1) Membership in the Organization shall be open to any State which is a member of any of the Unions as defined in Article 2(vii).

(2) Membership in the Organization shall be equally open to any State not a member of any of the Unions, provided that:

(i) it is a member of the United Nations, any of the Specialized Agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, or is a party to the Statute of the International Court of Justice, or

(ii) it is invited by the General Assembly to become a party to this Convention.

ARTICLE 6: GENERAL ASSEMBLY

(1)(a) There shall be a General Assembly consisting of the States party to this Convention which are members of any of the Unions.

(b) The Government of each State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) The General Assembly shall;

(i) appoint the Director General upon nomination by the Coordination Committee;

(ii) review and approve reports of the Director General concerning the Organization and give him all necessary instructions;

(iii) review and approve the reports and activities of the Coordination Committee and give instructions to such Committee;

(iv) adopt the triennial budget of expenses common to the Unions;

(v) approve the measures proposed by the Director General concerning the administration of the international agreements referred to in Article 4(iii);

(vi) adopt the financial regulations of the Organization;

/ARTICLE 6: GENERAL ASSEMBLY, continued/

(vii) determine the working languages of the Secretariat taking into consideration the practice of the United Nations;

(viii) invite States referred to under Article 5(2)(ii) to become party to this Convention;

(ix) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) exercise such other functions as are appropriate under this Convention.

(3)(a) Each State, whether member of one or more Unions, shall have one vote in the General Assembly.

(b) One-half of the States members of the General Assembly shall constitute a quorum.

(c) If, in any session, the number of States represented is less than one-half but equal to or more than one-third of the States members of the General Assembly, the decision of the General Assembly shall be provisional. The International Bureau shall communicate in writing any provisional decision to the States members of the General Assembly which were not represented in the session, and shall invite them at the same time to express their vote or abstention, within a period of four months from the date of the communication. If, within this period, together with the written replies received by the International Bureau, the required quorum and majority are attained, the decision shall be final.

/ARTICLE 6: GENERAL ASSEMBLY, continued/

(d) Subject to the provisions of subparagraphs (e) and (f)[1], the General Assembly shall make its decisions by a majority of two-thirds of the votes cast.

(e) The approval of measures concerning the administration of international agreements referred to in Article 4(iii) shall require a majority of three-fourths of the votes cast.[1]

(f) The approval of an agreement with the United Nations under Articles 57 and 63 of the Charter of the United Nations shall require a majority of nine-tenths of the votes cast.[1]

(g) For the appointment of the Director General (paragraph (2)(i), the approval of measures proposed by the Director General concerning the administration of international agreements (paragraph (2)(vi)), and the transfer of headquarters (Article 10), the required majority must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union.

1) The Main Committee, when increasing the majority required to two-thirds, decided that this be a general rule as in the administrative provisions of the Paris and Berne Unions. If it was really intended to make the rule general, the provisions underlined should be omitted. Since the Drafting Committee was not clear about the intentions of the Main Committee, the Drafting Committee did not take any position.

[ARTICLE 6: GENERAL ASSEMBLY, contd]

(h) Abstentions shall not be considered as votes.

(i) A delegate may represent, and vote in the name of, one State only.

(4)(a) The General Assembly shall meet once in every third calendar year in ordinary session, upon convocation by the Director General.

(b) The General Assembly shall meet in extraordinary session upon convocation by the Director General either at the request of the Coordination Committee or at the request of one-fourth of the States members of the General Assembly.

(c) Meetings shall be held at the headquarters of the Organization.

(5) States party to this Convention which are not members of any of the Unions shall be admitted to the meetings of the General Assembly as observers.

(6) The General Assembly shall adopt its own rules of procedure.

ARTICLE 7: CONFERENCE

(1)(a) There shall be a Conference consisting of the States party to this Convention whether or not they are members of any of the Unions.

(b) The Government of each State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) The Conference shall:

(i) discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions;

(ii) adopt the triennial budget of the Conference;

(iii) within the limits of the budget of the Conference, establish the triennial program of legal-technical assistance;

(iv) adopt amendments to this Convention as provided in Article 17;

(v) determine which States not members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

[ARTICLE 7: CONFERENCE, contd]

(vi) exercise such other functions as are appropriate under this Convention.

(3)(a) Each Member State shall have one vote in the Conference.

(b) One-third of the Member States shall constitute a quorum.

(c) Subject to the provisions of Article 17, the Conference shall make its decisions by a majority of two-thirds of the votes cast.

(d) The amounts of the contributions of States party to this Convention not members of any of the Unions shall be fixed by a vote in which only the delegates of such States shall have the right to vote.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one State only.

(4)(a) The Conference shall meet in ordinary session, upon convocation by the Director General, during the same period and at the same place as the General Assembly.

(b) The Conference shall meet in extraordinary session, upon convocation by the Director General, at the request of the majority of the Member States.

(5) The Conference shall adopt its own rules of procedure.

ARTICLE 8: COORDINATION COMMITTEE

(1)(a) There shall be a Coordination Committee consisting of the States party to this Convention which are members of the Executive Committee of the Paris Union, or the Executive Committee of the Berne Union, or both. However, if any of these Executive Committees is composed of more than one-fourth of the number of the countries members of the Assembly which elected them, then such Executive Committee shall designate from among its members the States which will be members of the Coordination Committee in such a way that their number shall not exceed the one-fourth referred to above, it being understood that the country on the territory of which the Organization has its headquarters shall not be included in the computation of the said one-fourth.

(b) The Government of each State member of the Coordination Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) Whenever the Coordination Committee considers either matters of direct interest to the program or budget of the Conference and its agenda, or proposals for the amendment of this Convention which would affect the rights or obligations of States party to this Convention not members of any of the Unions, one-fourth of such States shall participate in the meetings of the Coordination Committee with the same rights as members of that Committee. The Conference shall, at each of its ordinary sessions, designate these States.

/ARTICLE 8: COORDINATION COMMITTEE, continued/

(d) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) If the other Unions administered by the Organization wish to be represented as such in the Coordination Committee, their representatives must be appointed from among the States members of the Coordination Committee.

(3) The Coordination Committee shall:

(i) give advice to the organs of the Unions, the General Assembly, the Conference, and the Director General, on all administrative, financial and other matters of common interest either to two or more of the Unions, or to one or more of the Unions and the Organization, and in particular on the budget of expenses common to the Unions;

(ii) prepare the draft agenda of the General Assembly;

(iii) prepare the draft agenda and the draft program and budget of the Conference;

(iv) on the basis of the triennial budget of the Conference, as well as on the basis of the triennial program of legal-technical assistance, establish the corresponding annual budgets and programs;

/ARTICLE 8: COORDINATION COMMITTEE, continued/

(v) when the term of office of the Director General is about to expire, or when there is a vacancy in the post of the Director General, nominate a candidate for appointment to such position by the General Assembly; if the General Assembly does not appoint its nominee, the Coordination Committee shall nominate another candidate; this procedure shall be repeated until the latest nominee is appointed by the General Assembly;

(vi) if the post of the Director General becomes vacant between two sessions of the General Assembly, appoint an Acting Director General for the term preceding the assuming of office by the new Director General;

(vii) perform such other functions as are allocated to it under this Convention.

(4)(a) The Coordination Committee shall meet once every year in ordinary session, upon convocation by the Director General. It shall normally meet at the headquarters of the Organization.

(b) The Coordination Committee shall meet in extra-ordinary session, upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

/ARTICLE 8: COORDINATION COMMITTEE, continued/

(5)(a) Each State, whether a member of one or both of the Executive Committees referred to in paragraph (1)(a), shall have one vote in the Coordination Committee.

(b) One-half of the members of the Coordination Committee shall constitute a quorum.

(c) A delegate may represent, and vote in the name of, one State only.

(6)(a) The Coordination Committee shall express its opinions and make its decisions by a simple majority of the votes cast. Abstentions shall not be considered as votes.

(b) Even if a simple majority is obtained, any member of the Coordination Committee may, immediately after the vote, request that the votes be the subject of a special recount in the following manner: two separate lists shall be prepared, one containing the names of the States members of the Executive Committee of the Paris Union and the other the names of the States members of the Executive Committee of the Berne Union; the vote of each State shall be inscribed opposite its name in each list in which it appears. Should this special recount indicate that a simple majority has not been obtained in each of those lists, the proposal shall not be considered as carried.

/ARTICLE 8: COORDINATION COMMITTEE, continued/

(7) Any State Member of the Organization, which is not a member of the Coordination Committee may be represented at the meetings of the Committee by observers having the right to take part in the debates but without the right to vote.

(8) The Coordination Committee shall establish its own rules of procedure.

ARTICLE 9: INTERNATIONAL BUREAU

(1) The International Bureau shall be the Secretariat of the Organization.

(2) The International Bureau shall be directed by the Director General, assisted by two or more Deputy Directors General.

(3) The Director General shall be appointed for a fixed term, which shall be not less than six years. He shall be eligible for reappointment for fixed terms. The periods of the initial appointment and possible subsequent appointments, as well as all other conditions of the appointment, shall be fixed by the General Assembly.

(4)(a) The Director General shall be the chief executive of the Organization.

(b) He shall represent the Organization.

(c) He shall report to, and conform to the instructions of, the General Assembly as to the internal and external affairs of the Organization.

(5) The Director General shall prepare the draft programs and budgets and periodical reports on activities. He shall transmit them to the Governments of the interested States and to the competent organs of the Unions and the Organization.

/ARTICLE 9: INTERNATIONAL BUREAU, continued/

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the General Assembly, the Conference, the Co-ordination Committee, and any other committee or working group. The Director General or a staff member designated by him shall be ex officio secretary of these bodies.

(7) The Director General shall appoint the staff necessary for the efficient performance of the tasks of the International Bureau. He shall appoint the Deputy Directors General after approval by the Coordination Committee. The conditions of employment shall be fixed by the staff regulations to be approved by the Coordination Committee on the proposal of the Director General. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(8) The nature of the responsibilities of the Director General and of the staff shall be exclusively international. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each Member State undertakes to respect

/ARTICLE 9: INTERNATIONAL BUREAU, continued/

the exclusively international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties.

ARTICLE 10: HEADQUARTERS

(1) The headquarters of the Organization shall be at Geneva.

(2) Its transfer may be decided as provided for in Article 6(3)(g).

ARTICLE 11: FINANCES

(1) The Organization shall have two separate budgets: the budget of expenses common to the Unions, and the budget of the Conference.

(2)(a) The budget of expenses common to the Unions shall include provision for expenses of interest to several Unions.

(b) This budget shall be financed from the following sources:

(i) contributions of the Unions, provided that the amount of the contribution of each Union shall be fixed by the Assembly of that Union, having regard to the interest the Union has in the common expenses;

(ii) charges due for services performed by the International Bureau not in direct relation with any of the Unions or not received for services rendered by the International Bureau in the field of legal-technical assistance;

(iii) sale of, or royalties on, the publications of the International Bureau not directly concerning any of the Unions;

/ARTICLE 11: FINANCES, paragraph (2), continued/

(iv) gifts, bequest, and subventions, given to the Organization, except those referred to in paragraph (3)(b)(iv);

(v) rents, interests, and other miscellaneous income, of the Organization.

(3)(a) The budget of the Conference shall include provision for the expenses of holding sessions of the Conference and for the cost of the legal-technical assistance program.

(b) This budget shall be financed from the following sources:

(i) contributions of States party to this Convention not members of any of the Unions;

(ii) any sums made available to this budget by the Unions, provided that the amount of the sum made available by each Union shall be fixed by the Assembly of that Union and that each Union shall be free to abstain from contributing to the said budget;

(iii) sums received for services rendered by the International Bureau in the field of legal-technical assistance;

(iv) gifts, bequests, and subventions, given to the Organization for the purposes referred to in sub-paragraph (a).

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/ARTICLE 11: FINANCES, continued/

(4)(a) For the purpose of establishing its contribution towards the budget of the Conference, each State party to this Convention not member of any of the Unions shall belong to a class, and shall pay its annual contributions on the basis of a fixed number of units as follows:

Class A 10

Class B 3

Class C 1

(b) Each such State shall, concurrently with taking action as provided in Article 14(1), indicate the class to which it wishes to belong. Any such State may change class. If it chooses a lower class, the State must announce it to the Conference at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each such State shall be an amount in the same proportion to the total sum to be contributed to the budget of the Conference by all such States as the number of its units is to the total of the units of all the said States.

[ARTICLE 11: FINANCES, paragraph 4, continued]

(d) Contributions shall become due on the first of January of each year.

(e) If the budget is not adopted before the beginning of a new financial period, the budget shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) Any State party to this Convention not member of any of the Unions which is in arrears in the payment of its financial contributions under the present Article, and any State party to this Convention member of any of the Unions which is in arrears in the payment of its contributions to any of the Unions, shall have no vote in the General Assembly, the Coordination Committee, and the Conference, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any of these bodies may allow such a State to continue to exercise its vote in that body if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

(6) The amount of the fees and charges due for services rendered by the International Bureau in the field of legal-technical assistance shall be established, and shall be reported to the Coordination Committee, by the Director General.

/ARTICLE 11: FINANCES, continued/

(7) The Organization, with the approval of the Coordination Committee, may receive gifts, bequests, and subventions, directly from Governments, public or private institutions, associations or private persons.

(8)(a) The Organization shall have a working capital fund which shall be constituted by a single payment made by the Unions and by each State party to this Convention not member of any Union. If the fund becomes insufficient, it shall be increased.

(b) The amount of the single payment of each Union and its possible participation in any increase shall be decided by its Assembly.

(c) The amount of the single payment of each State party to this Convention not member of any Union and its part in any increase shall be a proportion of the contribution of that State for the year in which the fund is established or the increase decided. The proportion and the terms of payment shall be fixed by the Conference on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

[ARTICLE 11: FINANCES, continued]

(9)(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have an ex officio seat on the Coordination Committee.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(10) The auditing of the accounts shall be effected by one or more Member States, or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the General Assembly.

ARTICLE 12: LEGAL CAPACITY;
PRIVILEGES AND IMMUNITIES

(1) The Organization shall enjoy on the territory of each Member State, in conformity with the laws of that State, such legal capacity as may be necessary for the fulfilment of the Organization's objectives and for the exercise of its functions.

(2) The Organization shall conclude a headquarters agreement with the Swiss Confederation and with any other State in which the headquarters may subsequently be located.

The Organization may conclude bilateral or multilateral agreements with the other Member States with a view to the enjoyment by the Organization, its officials, and representatives of all Member States, of such privileges and immunities as may be necessary for the fulfilment of its purposes and for the exercise of its functions.

(4) The Director General may negotiate, and after approval by the Coordination Committee shall conclude, the agreements referred to in paragraphs (2) and (3).

ARTICLE 13: RELATIONS WITH OTHER ORGANIZATIONS

(1) The Organization shall, where appropriate, establish working relations and cooperate with other intergovernmental organizations. Any general agreement to such effect entered into with such organizations shall be concluded by the Director General after approval by the Coordination Committee.

The Organization may, on matters within its competence, make suitable arrangements for consultation and co-operation with international non-governmental organizations and, with the consent of the Governments concerned, with national organizations, governmental or non-governmental. Such arrangements shall be made by the Director General after approval by the Coordination Committee.

Note: The Drafting Committee recommends that the words "effective" (working relations) and "closely" (cooperate), retained in paragraph (1), by the Main Committee, be omitted in the final text.

ARTICLE 14: BECOMING PARTY TO THE CONVENTION;

(1)(a) States referred to in Article 5 may become party to this Convention and Member of the Organization by:

(i) signature without reservation as to ratification, or

(ii) signature subject to ratification followed by the deposit of an instrument of ratification, or

(iii) deposit of an instrument of accession.

(b) Notwithstanding any other provision of this Convention, a State party to the Paris Convention, the Berne Convention, or both Conventions, may become a party to this Convention only if it concurrently ratifies or accedes to, or only after it has ratified or acceded to:

either the Stockholm Act of the Paris Convention in its entirety or with only the limitation set fourth in Article 16(1)(b)(i) thereof,

or the Stockholm Act of the Berne Convention in its entirety or with only the limitation set forth in Article 25(1)(b)(i) thereof.

(c) Instruments of ratification or accession shall be deposited with the Director General.

ARTICLE 15: ENTRY INTO FORCE OF THE CONVENTION

(1)(a) This Convention shall enter into force three months after ten States members of the Paris Union and seven States members of the Berne Union have taken action as provided in Article 14(1)(a), it being understood that, if a State is a member of both Unions, it will be counted in both groups. On that date, this Convention shall enter into force also in respect of States which, not being members of either of the two Unions, have taken action as provided in Article 14(1)(a) three months or more prior to that date.

(b) In respect to any other State, this Convention shall enter into force three months after the date on which such State takes action as provided in Article 14(1)(a).

ARTICLE 16: RESERVATIONS

No reservations to this Convention are permitted.

ARTICLE 17: AMENDMENTS

(1) Proposals for the amendment of this Convention may be initiated by any Member State, by the Coordination Committee, or by the Director General. Such proposals shall be communicated by the Director General to the Member States at least six months in advance of their consideration by the Conference.

(2) Amendments shall be adopted by the Conference. Whenever amendments would affect the rights and obligations of States party to this Convention not members of any of the Unions, such States shall also vote. On all other amendments proposed, only States party to this Convention members of any Union shall vote. Amendments shall be adopted by a simple majority of the votes cast, provided that the Conference shall vote only on such proposals for amendments as have previously been adopted by the Assembly of the Paris Union and the Assembly of the Berne Union according to the rules applicable in each of them regarding the adoption of amendments to the administrative provisions of their respective Conventions.

(3) Any amendment shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the States members of the Organization, entitled to vote on the proposal for amendment pursuant to paragraph (2), at the time the Conference

/ARTICLE 17: AMENDMENTS, continued/

adopted the amendment. Any amendments thus accepted shall bind all the States which are members of the Organization at the time the amendment enters into force or which become members at a subsequent date, provided that any amendment increasing the financial obligations of Member States shall bind only those States which have notified their acceptance of such amendment.

ARTICLE 18: DENUNCIATION

(1) Any Member State may denounce this Convention by notification addressed to the Director General.

(2) Denunciation shall take effect six months after the day on which the Director General has received the notification.

ARTICLE 19: NOTIFICATIONS

The Director General shall notify the Governments of all Member States of:

(i) the date of entry into force of the Convention,

(ii) signatures and deposits of instruments of ratification or accession,

(iii) acceptances of an amendment to this Convention, and the date upon which the amendment enters into force,

(iv) denunciations of this Convention.

ARTICLE 20: FINAL PROVISIONS

(1)(a) This Convention shall be signed in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic, and shall be deposited with the Government of Sweden.

(b) This Convention shall remain open for signature at Stockholm until January 13, 1968.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in the German, Italian and Portugese languages and such other languages as the Conference may designate.

copies of this Convention and of each amendment adopted by the Conference to the Governments of the States members of the Paris or Berne Unions, to the Government of any other State when it accedes to this Convention, and, on request, to the Government of any other State. The copies of the signed text of the Convention transmitted to the Governments shall be certified by the Government of Sweden.

(4) The Director General shall register this Convention with the Secretariat of the United Nations.

ARTICLE 21: TRANSITIONAL PROVISIONS

(1) Until the first Director General assumes office, references in this Convention to the International Bureau or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (also called the United International Bureaux for the Protection of Intellectual Property (BIRPI)),or its Director, respectively.

(2)(a) States which are members of any of the Unions but which have not become party to this Convention may, for five years from the date of entry into force of this Convention, exercise, if they so desire, the same rights as if they had become party to this Convention. Any State desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such States shall be deemed to be members of the General Assembly and the Conference until the expiration of the said period.

(b) Upon expiration of this five-year period, such States shall have no right to vote in the General Assembly, the Conference, and the Coordination Committee.

(c) Upon becoming party to this Convention, such States shall regain such right to vote.

/ARTICLE 21: TRANSITIONAL PROVISIONS, continued /

(3)(a) As long as there are States members of the Paris or Berne Unions which have not become party to this Convention, the International Bureau and the Director General shall also function as the United International Bureaux for the Protection of Industrial, Literary and Artistic Property, and its Director, respectively.

(b) The staff in the employment of the said Bureaux on the date of entry into force of this Convention shall, during the transitional period referred to in subparagraph (a), be considered as also employed by the International Bureau.

(4)(a) Once all the States members of the Paris Union have become Members of the Organization, the rights, obligations, and property, of that Union and its Bureau shall devolve on the International Bureau.

(b) Once all the States members of the Berne Union have become Members of the Organization, the rights, obligations, and property, of the Union and its Bureau shall devolve on the International Bureau.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Stockholm, on July 14, 1967

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

1er juillet 1967
Date: July 1, 1967 N° S/251-S/252 *
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CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROJET

DISPOSITIONS ADMINISTRATIVES ET
CLAUSES FINALES DES CONVENTIONS DE

PARIS ET BERNE

présenté par le

Comité de rédaction de la Commission principale IV

(Président : M. R. Labry)

DRAFT

ADMINISTRATIVES PROVISIONS AND
FINAL CLAUSES OF THE

PARIS AND BERNE CONVENTIONS

presented by the

Drafting Committee of Main Committee IV

(Chairman: Mr. R. Labry)

VOIR NOTE A LA PAGE 70
SEE NOTE ON PAGE 71

ARTICLE 13: ASSEMBLY

(1)(a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 13 to 17.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;

(ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as the "International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as the "Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17;

[ARTICLE 13: ASSEMBLY, continued]

(iii) review and approve the reports and activities of the Director General of the Organization concerning the Union and give him all necessary instructions concerning matters within the competence of the Union;

(iv) elect the members of the Executive Committee of the Assembly;

(v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;

(vi) determine the program and adopt the triennial budget of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees of experts and working groups as may be necessary for the work of the Union;

(ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) adopt amendments to Articles 13 to 17;

(xi) take any other appropriate action designed to further the objectives of the Union;

[ARTICLE 13: ASSEMBLY, continued]

(xii) exercise such other functions as are appropriate under this Convention;

(xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Subject to the provisions of subparagraph (b), a delegate may represent only one country.

(b) Countries of the Union grouped under the terms of a special agreement in a common Office possessing for each of them the character of a special national service of industrial property as referred to in Article 12 may be jointly represented during discussions by one of their number.

(4)(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

ARTICLE 13: ASSEMBLY, continued

(c) If, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the decisions of the Assembly shall be provisional and shall not take effect until they become final. The International Bureau shall communicate in writing any provisional decision to the countries members of the Assembly which were not represented in the session, and shall invite them at the same time to express in writing their vote or abstention, within a period of four months from the date of the communication. If, within this period, together with the written replies received by the International Bureau, the required quorum and majority are attained, the decision shall be final.

(d) Subject to the provisions of Article 17(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(5)(a) Subject to the provisions of subparagraph (b), a delegate may vote in the name of one country only.

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/ARTICLE 13: ASSEMBLY, continued/

(b) The countries of the Union referred to in paragraph 3(b) shall, as a general rule, endeavor to send their own delegations to the sessions of the Assembly. If, however, for exceptional reasons, any such country cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name, provided that each delegation may vote by proxy for one country only. This power to vote shall be granted in a document signed by the Head of State or the competent Minister.

(6) Countries of the Union not members of the Assembly shall be admitted to its meetings as observers.

(7)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(8) The Assembly shall adopt its own rules of procedure.

ARTICLE 14: EXECUTIVE COMMITTEE

(1) The Assembly shall have an Executive Committee.

(2)(a) The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 16(7)(b), have an ex officio seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements established in relation with the Union to be among the countries constituting the Executive Committee.

[ARTICLE 14: EXECUTIVE COMMITTEE, continued]

(5)(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but not more than two-thirds of them.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union, prepared by the Director General;

(iii) approve , within the limits of the program and the triennial budget, the specific yearly budgets and programs prepared by the Director General;

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

[ARTICLE 14: EXECUTIVE COMMITTEE, continued]

(v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director General;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

[ARTICLE 14: EXECUTIVE COMMITTEE, continued]

(8)(a) Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules of procedure.

ARTICLE 15: INTERNATIONAL BUREAU

(1)(a) The administrative tasks with respect to the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Literary and Artistic Works.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of industrial property. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of industrial property. It shall furnish to the International Bureau all the publications of its industrial property service of direct concern to the protection of industrial property and which the International Bureau may find useful in its work.

(3) The International Bureau shall publish a monthly periodical.

[ARTICLE 15: INTERNATIONAL BUREAU, continued]

(4)* The number of free copies of the monthly periodical and other publications of the International Bureau that each country of the Union is entitled to receive shall be proportionate to the number of units in the class to which the country belongs according to Article 16(4)(a) and shall be fixed by the Assembly.

(5) The International Bureau shall, on request, furnish information to any country of the Union on matters concerning the protection of industrial property.

(6) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of industrial property.

(7) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(8)(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 13 to 17.

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*The Drafting Committee proposes to delete paragraph 4.

[ARTICLE 15: INTERNATIONAL BUREAU, continued]

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(9) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 16: FINANCES

(1)(a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Union shall be financed from the following sources:

(i) contributions of the countries of the Union;

(ii) charges due for services performed by the International Bureau in relation to the Union;

[ARTICLE 16: FINANCES, continued]

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4)(a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3
Class VII	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

[ARTICLE 16: FINANCES, continued]

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions shall have no vote in any organ of the Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(f) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Coordination Committee, by the Director General.

[ARTICLE 16: FINANCES, continued]

(6)(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient an increase shall be decided by the Assembly.

(b) The amount of the payment of each country to the fund or to an increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(7)(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an ex officio seat on the Executive Committee.

[ARTICLE 16: FINANCES, continued]

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 17: AMENDMENTS
TO ARTICLES 13 TO 17

(1) Proposals for the amendment of Articles 13, 14, 15, 16, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 13, and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 18: REVISION OF THE PROVISIONS
OF THE CONVENTION OTHER THAN
ARTICLES 13 TO 17

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For this purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Amendments to Articles 13 to 17 are governed by the provisions of Article 17.

ARTICLE 19: SPECIAL AGREEMENTS

It is understood that the countries of the Union reserve the right to make separately between themselves special agreements for the protection of industrial property, in so far as these agreements do not contravene the provisions of this Convention.

ARTICLE 20: RATIFICATION AND ACCESSION BY COUNTRIES OF THE UNION; ENTRY INTO FORCE

(1)(a) Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification and accession shall be deposited with the Director General.

(b) Any country of the Union may declare in its instrument of ratification or accession that its ratification or accession shall not apply:

(i) to Articles 1 to 12, or
(ii) to Articles 13 to 17.

(c) Any country of the Union which, in accordance with subparagraph (b), has excluded from the effects of its ratification or accession one of the two groups of Articles referred to in that subparagraph may at any later time declare that it extends the effects of its ratification or accession to that group of Articles. Such declaration shall be deposited with the Director General.

(2)(a) Articles 1 to 12 shall enter into force, with respect to those countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(i), three months after the deposit of the tenth such instrument of ratification or accession.

[ARTICLE 20: RATIFICATION AND ACCESSION BY COUNTRIES OF THE UNION; ENTRY INTO FORCE, continued]

(b) Articles 13 to 17 shall enter into force, with respect to those countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(ii), three months after the deposit of the tenth such instrument of ratification or accession.

(c) Subject to the initial entry into force, pursuant to the provisions of subparagraphs (a) and (b), ~~of this paragraph~~, of each of the two groups of Articles referred to in paragraph (1)(b)(i) and (ii), and subject to the provisions of paragraph (1)(b), Articles 1 to 17 shall, with respect to any country of the Union, other than those referred to in subparagraphs (a) and (b), which deposits an instrument of ratification or accession or any country of the Union which deposits a declaration pursuant to paragraph (1)(c), enter into force three months after the date of notification by the Director General of such deposit, unless a subsequent date has been indicated in the instrument or declaration deposited.

(3) With respect to any country of the Union which deposits an instrument of ratification or accession, Articles 18 to 29 shall enter into force on the earlier of the dates on which any of the groups of Articles referred to in paragraph (1)(b) enters into force with respect to that country pursuant to paragraph (2)(a), (b) or (c).

ARTICLE 21: ACCESSION BY COUNTRIES OUTSIDE THE UNION; ENTRY INTO FORCE

(1) Any country outside the Union may accede to this Act and thereby become a member of the Union. Instruments of accession shall be deposited with the Director General.

(2)(a) With respect to any country outside the Union which deposits its instrument of accession one month or more before the date of entry into force of any provisions of the present Act, this Act shall enter into force, unless a subsequent date has been indicated in the instrument of accession, on the date upon which provisions first enter into force pursuant to Article 20(2)(a) or (b); provided that:

(i) if Articles 1 to 12 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 1 to 12 of the Lisbon Act,

(ii) if Articles 13 to 17 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 13 and 14(3) and (4) of the Lisbon Act.

[ARTICLE 21: ACCESSION BY COUNTRIES OUTSIDE THE UNION; ENTRY INTO FORCE; continued]

If a country indicates a subsequent date in its instrument of accession, this Act shall enter into force with respect to that country on the date thus indicated.

(b) With respect to any country outside the Union which deposits its instrument of accession on a date which is subsequent to, or precedes by less than one month, the entry into force of ~~any~~ one group of Articles of the present Act, this Act shall, subject to the proviso of subparagraph (a), enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country outside the Union which deposits its instrument of accession after the date of entry into force of the present Act in its entirety, or less than one month before such date, this Act shall enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

ARTICLE 22: EFFECT OF RATIFICATION OR ACCESSION

Subject to the possibilities of exceptions provided for in Article 20(1)(b), ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

ARTICLE 23: ACCESSION TO EARLIER ACTS

[RESERVED]

ARTICLE 24: TERRITORIES

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3)(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in which it was included, and any notification given under such paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

ARTICLE 25: IMPLEMENTATION OF THE CONVENTION

(1) Every country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country deposits its instrument of ratification or accession, it will be in a position under its domestic law to give effect to the provisions of this Convention.

ARTICLE 26: DENUNCIATION

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4)* The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

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* The Drafting Committee recommends that the report of Main Committee IV should contain an interpretation of paragraph (4) clarifying that the denunciation can only be notified after the expiration of the five year period. Thus, denunciation will be effective, at the earliest, ~~only~~ six years after the date mentioned in paragraph (4).

ARTICLE 27: APPLICATION OF EARLIER ACTS

[RESERVED]

ARTICLE 28: SIGNATURE, ETC.

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the English, German, Italian, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments or made pursuant to Article 20(1)(c),

[ARTICLE 28: SIGNATURE, ETC., continued]

entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Article 24.

ARTICLE 29: TRANSITIONAL PROVISIONS

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the Bureau of the Union or its Director, respectively.

(2) Countries of the Union not bound by Articles 13 to 17 may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided under Articles 13 to 17 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

/ARTICLE 29: TRANSITIONAL PROVISIONS, continued/

(3) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(4) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

RE-SER-VED

DONE at Stockholm, on July 14, 1967.

NOTE CONCERNING THE BERNE CONVENTION

The preceding provisions are applicable also to the Berne Convention with the following exceptions:

A. The numbering of the articles is different.

B. The numerical references to articles are different.

C. Article 21 (3) is to be omitted.

D. Articles 13(3) and (5) are to be omitted and the latter replaced--as paragraph (4)(f)--by the following text: "A delegate may represent, and vote in the name of, one country only."

E. In Article 15(1)(a), replace "Literary and Artistic Works" by "Industrial Property."

F. In Article 15 (2) replace, where it occurs for the first two places, "industrial property" by "copyright," and omit the last 3.1/2 lines ("and shall furnish .. .its work").

G. In Article 15 (5) and (6), replace "industrial property" by "copyright."

H. Article 18 (3) should read as follows: "Subject to the provisions of Article ... which apply to the

amendment of Articles ... to ..., any revision of this Convention, including the Protocol Regarding Developing Countries, shall require the unanimity of the votes cast."

I. Article 19 is inapplicable.

J. In Article 20(2)(a) replace "tenth" by "fifth," and in (b) replace "tenth" by "seventh."

K. In Article 21(2)(a)(i) and (ii), replace "Lisbon" by "Brussels."

L. Article 22 is reserved.

M. In Article 28(1)(a) insert "and English" after "French."

N. In Article 28(1)(b), omit the words "English" and "Russian."

O. In Article 29(1) and (3) replace "literary and artistic works" by "industrial property."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 4, 1967 N° S/253
Subject (Union): Berne
Original: English
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION

PROPOSAL OF THE DELEGATIONS OF DENMARK, FINLAND, NORWAY AND SWEDEN

Article 1 of the Protocol Regarding Developing Countries (document S/1)

To read:

"Any country designated as a developing country under the established practice of the General Assembly of the United Nations and which ratifies or accedes to this Act ..."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/254
Subject (Union): Madrid (Trademarks)
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

This Document does not exist in English.

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

Date: 4 juillet 1967 N° S/255
July 4, 1967
Sujet Subject (Union): Madrid (FIS)
Original: English/français
Distribution: Main Committee IV
Commission principale IV

CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROJET

ARRANGEMENT DE MADRID (INDICATIONS DE PROVENANCE)

présenté par le

Comité de rédaction de la Commission principale IV

(Président : M. R. Labry)

DRAFT

MADRID AGREEMENT (INDICATIONS OF SOURCE)

presented by the

Drafting Committee of Main Committee IV

(Chairman: Mr. R. Labry)

318

STOCKHOLM ACT OF JULY, 1967, ADDITIONAL TO THE MADRID AGREEMENT FOR THE REPRESSION OF FALSE OR DECEPTIVE INDICATIONS OF SOURCE ON GOODS OF APRIL 14, 1891 AS REVISED AT WASHINGTON ON JUNE 2, 1911, AT THE HAGUE ON NOVEMBER 6, 1925, AT LONDON ON JUNE 2, 1934 AND AT LISBON ON OCTOBER 31, 1958

(Provisional English Translation)

ARTICLE 1

Instruments of accession to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, of April 14, 1891 (hereinafter designated as "the Madrid Agreement"), as revised at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, and at Lisbon on October 31, 1958

(hereinafter designated as "the Lisbon Act"), shall be deposited with the Director General of the World Intellectual Property Organization (hereinafter designated as "the Director General"), who shall notify such deposits to the countries parties to the Agreement.

ARTICLE 2

The reference, in Articles 5 and 6(2) of the Lisbon Act, to Articles 16, 16bis, and 17bis, of the General Convention shall be considered as references to those provisions of the Stockholm Act of that Convention which correspond to the said Articles.

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ARTICLE 3 [SIGNATURE AND RATIFICATION OF, AND ACCESSION TO, THE ADDITIONAL ACT]

(1) The present Additional Act may be signed by any country party to the Madrid Agreement and may be ratified, or acceded to, by any country which has ratified or acceded to the Lisbon Act.

(2) Instruments of ratification or accession shall be deposited with the Director General.

ARTICLE 4 [AUTOMATIC ACCEPTANCE OF ARTICLES 1 AND 2 BY COUNTRIES ACCEDING TO THE LISBON ACT]

Any country which has not ratified or acceded to the Lisbon Act shall become bound also by Articles 1 and 2 of the present Additional Act from the date on which its accession to the Lisbon Act enters into force, *provided, however,* that if, on the said date, the present Additional Act has not yet entered into force pursuant to Article 5(1), then such country shall become bound by Articles 1 and 2 of the present Additional Act only from the date of entry into force of the present Additional Act pursuant to Article 5(1).

ARTICLE 5 [ENTRY INTO FORCE OF THE ADDITIONAL ACT]

(1) The present Additional Act shall enter into force on the date on which the Stockholm Convention of July 14, 1967, establishing the World Intellectual Property Organization has come into force, *provided, however,* that if, by that date, at least two ratifications or accessions to the present Additional Act have not been deposited, then the present Additional Act shall enter into force on the date on which two ratifications or accessions to the present Additional Act have been deposited.

(2) With respect to any country which deposits its instrument of ratification or accession after the date on which the present Additional Act has entered into force pursuant to the preceding paragraph, the present Additional Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General.

ARTICLE 6 [SIGNATURE, ETC., OF THE ADDITIONAL ACT]

(1) The present Additional Act shall be signed in a single copy and shall be deposited with the Government of Sweden.

(2) The present Additional Act shall remain open for signature at Stockholm until the date of its entry into force pursuant to Article 5(1).

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of the present Additional Act to the Governments of all countries parties to the Madrid Agreement and, on request, to the Government of any other country.

(4) The Director General shall register the present Additional Act with the Secretariat of the United Nations [~~as soon as possible~~].

(5) The Director General shall notify the Governments of all countries parties to the Madrid Agreement of signatures, deposits of instruments of ratification or accession, entry into force, and other relevant notifications.

ARTICLE 7 [TRANSITIONAL PROVISION]

Until the first Director General assumes office, references in the present Additional Act to him shall be deemed to be references to the Director of the United International Bureaux for the Protection of Intellectual Property.

[RESERVED] IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Additional Act.

DONE at Stockholm, on July 14, 1967.

[*Here will follow the names of the States parties to the Madrid Agreement invited to the Stockholm Conference, each name being preceded by the words "For the Government of", and followed by a blank space reserved for the signature or signatures.*]

[*End of Proposed Text*]

N° SY256

It does not exist in English.

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

Date: July 4, 1967 N° S/257
Sujet Subject (Union): Nice
Original: français - English
Distribution: Main Committee IV
Commission principale IV

CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROJET

ARRANGEMENT DE NICE

présenté par le

Comité de rédaction de la Commission principale IV

(Président : M. R. Labry)

DRAFT

NICE AGREEMENT

presented by the

Drafting Committee of Main Committee IV

(Chairman: Mr. R. Labry)

PROVISIONAL ENGLISH TRANSLATION

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS OF JUNE 15, 1957, AS REVISED AT STOCKHOLM ON JULY 14, 1967

ARTICLE 1

(1) [No change is proposed.]

(2) [No change is proposed.]

(3) [No change is proposed.]

(4) [No change is proposed.]

(5) [No change is proposed.]

(6) The classification shall be established in the French language and, at the request of any contracting country, an official translation into the language of that country may be published by the International Bureau of Intellectual Property (hereinafter designated as the "International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as the "Organization") in agreement with the national Administration concerned. Each translation of the list of goods and services shall mention against each of the goods or services, in addition to its number according to the alphabetical listing in the language concerned, the number which it bears in the list established in the French language.

ARTICLE 2

[No change is proposed.]

ARTICLE 3

[No change is proposed.]

ARTICLE 4

[No change is proposed.]

ARTICLE 5 [ASSEMBLY]

(1)(a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each Delegation shall be borne by the Government which has appointed it.

(2)(a) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of its Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) review and approve reports and activities of the Director General of the Organization (hereinafter designated as the Director General) concerning the Special Union, and give him any necessary instructions concerning matters within the competence of the Special Union;

[ARTICLE 5 [ASSEMBLY], continued]

(iv) determine the program and adopt the triennial budget of the Special Union and approve its final accounts;

(v) adopt the Financial Regulations of the Special Union;

(vi) establish, in addition to the Committee of Experts referred to in Article 3, such Working Groups as may be considered necessary to further the objectives of the Special Union;

(vii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(viii) adopt amendments to Articles 5 to 8;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) exercise such other functions as are appropriate under this Agreement.

(2)(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Each country member of the Assembly shall have one vote.

(b) One half of the countries members of the Assembly shall constitute a quorum.

(c) [RESERVED]

(d) Subject to the provisions of Article 8(2), the decisions of the Assembly shall require two-thirds of the vote cast.

[ARTICLE 5 [ASSEMBLY], continued]

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union that are not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

ARTICLE 6 [INTERNATIONAL BUREAU]

(1)(a) The administrative tasks with respect to the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall make preparations for the meetings and provide the secretariat of the Assembly, of the Committee of Experts, and of such other Working Groups as may have been established by the Assembly or the Committee of Experts.

[ARTICLE 6 [INTERNATIONAL BUREAU], continued]

(c) The Director General
the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, of the Committee of Experts, and of such other Working Groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 7. [FINANCES]

(1)(a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

/ARTICLE 7 /FINANCES/, continued/

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) contributions of the countries of the Special Union;

(ii) charges due for services performed by the International Bureau in relation to the Special Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4)(a) For the purpose of establishing its contribution referred to in paragraph (3)(i), each country of the Special Union shall belong to the same class as it belongs to in the International (Paris) Union for the Protection of Industrial Property, and shall pay its annual contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed by all countries of the Special Union as the number of its units is to the total of the units of all contributing countries.

[ARTICLE 7 [FINANCES], continued]

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its contributions shall have no vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its vote if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial Regulations.

(5) The amount of the charges due for services rendered by the International Bureau in relation to the Special Union shall be established by the Director General, who shall report on them to the Assembly.

(6)(a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the payment of each country to the fund or to an increase thereof shall be a proportion of the contribution of that country as a party to the Paris Convention for the Protection of Industrial Property for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

[ARTICLE 7 [FINANCES], continued]

(7)(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 8 /AMENDMENTS TO ARTICLES 5 TO 8/

(1) Proposals for the amendment of Articles 5, 6, 7 and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the latter to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 5, and of the present paragraph shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it has adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force or which become members thereof at a subsequent date, except that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 9

[RATIFICATION AND ACCESSION;
ENTRY INTO FORCE
ACCESSION TO EARLIER ACTS]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of this Special Union.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4)(a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General unless the country has indicated a subsequent date in its instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, a country may accede to the original Act of June 15, 1957, of this Agreement, only in conjunction with ratification of, or accession to, this Act.

ARTICLE 10 [FORCE AND DURATION]

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

ARTICLE 11

[REVISION OF THE PROVISIONS OF THE AGREEMENT
OTHER THAN ARTICLES 5 TO 8]

(1) This Agreement shall be submitted to revisions with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held between the delegates of the countries of the Special Union

ARTICLE 12

[APPLICATION OF THE ORIGINAL ACT OF 1957]

[RESERVED]

ARTICLE 13

[DENUNCIATION]

(1) This Agreement shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of June 15, 1957, of this Agreement and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

ARTICLE 14 [TERRITORIES]

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 15 [SIGNATURE, ETC.]

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts may be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, and notifications of denunciation.

ARTICLE 16

[TRANSITIONAL PROVISIONS]

(1) Until the first Director General assumes office, references in the present Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the International Bureau of the Union established by the Paris Convention for the Protection of Industrial Property, or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the World Intellectual Property Organization, exercise, if they so desire, the rights provided under Articles 5 to 8 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General, this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

[RESERVED] IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

Date: July 4, 1967 N° S/258
Sujet Subject (Union): Lisbon-Lisbonne
Original: English/français
Distribution: Main Committee IV
Commission principale IV

CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROJET

ARRANGEMENT DE LISBONNE

présenté par le

Comité de rédaction de la Commission principale IV

(Président: M. R. Labry)

DRAFT

LISBON AGREEMENT

presented by the

Drafting Committee of Main Committee IV

(Chairman: Mr. R. Labry)

PROVISIONAL
ENGLISH
TRANSLATION

LISBON AGREEMENT FOR THE PROTECTION OF APPELLATIONS OF ORIGIN AND THEIR INTERNATIONAL REGISTRATION OF OCTOBER 31, 1958

AS REVISED AT STOCKHOLM ON JULY 14, 1967

ARTICLE 1

(1) The countries to which this Agreement applies form a Special Union within the framework of the Union for the Protection of Industrial Property.

(2) They undertake to protect on their territories, in accordance with the terms of this Agreement, the appellations of origin of products of the other countries of the Special Union, recognized and protected as such in the country of origin and registered at the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau" or "the Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization").

ARTICLE 2

[*No change is proposed.*]

ARTICLE 3

[*No change is proposed.*]

ARTICLE 4

The provisions of this Agreement shall in no way exclude the protection already granted to appellations of origin in each of the countries of the Special Union by virtue of other international instruments, such as the Paris Convention of March 20, 1883, for the Protection of Industrial Property and its subsequent revisions, and the Madrid Agreement of April 14, 1891, for the Repression of False or Deceptive Indications of Source on Goods and its subsequent revisions, or by virtue .. national legislation or judicial decisions.

ARTICLE 5

(1) The registration of appellations of origin shall be effected at the International Bureau, at the request of the Administrations of the countries of the Special Union, in the name of any individual person or legal entity, public or private, having, according to their national legislation, a right to use such appellations.

(2) [*No change is proposed.*]

(3) [*No change is proposed.*]

(4) [*No change is proposed.*]

(5) [*No change is proposed.*]

(6) [*No change is proposed.*]

ARTICLE 6

[*No change is proposed.*]

ARTICLE 7

(1) [*No change is proposed.*]

(2) A single fee shall be paid for the registration of each appellation of origin.[7]

ARTICLE 8

[*No change is proposed.*]

(1)(a) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(b) The Government of each country shall be represented by one delegate who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each Delegation shall be borne by the Government which has appointed it.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of its Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) modify the Regulations, including the fixation of the amount of the fee referred to in Article 7(2) and other fees relating to international registration;

(iv) review and approve reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him any necessary instructions concerning matters within the competence of the Special Union;

[ARTICLE 9 [ASSEMBLY], continued]

(v) determine the program and adopt the triennial budget of the Special Union and approve its final accounts;

(vi) adopt the Financial Regulations of the Special Union;

(vii) establish such committees of experts and working groups as may be considered necessary to further the objectives of the Special Union;

(viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Articles 9 to 12;

take any other appropriate action designed to further the objectives of the Special Union;

(x) exercise such other functions as are appropriate under this Agreement.

(2)(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) [Reserved]

(d) Subject to the provisions of Article 12(2), the decisions of the Assembly shall require at least two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Special Union that are not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session, upon convocation by the Director General at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

ARTICLE 10 [INTERNATIONAL BUREAU]

(1)(a) The international registration and related duties, as well as the Union shall be performed by the International Bureau of the Organization.

(b) In particular, the International Bureau shall make preparations for the meetings and provide the secretariat of the Assembly and of such other committees of experts and working groups as may have been established by [the Assembly]

(c) The Director General of the Organization shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly and of such other committees as may have been established by the Assembly. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(3)(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 9 to 12.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

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[ARTICLE 11 [FINANCES]]

(1)(a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administer by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) international registration fees collected under Article 7(2) and charges due for other services performed by the International Bureau in relation to the Special Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous incom

(v) contributions of the countries to the Special Union, if and to the extent to which receipts from the sources indicated in items (i) to (iv) do not suffice to cover the expenses of the Special Union.

(4)(a) The amount of the fee referred to in Article 7(2) shall be proposed by the Director General and shall be fixed by the Assembly.

(b) The amount of the said fee shall be so fixed that the revenue of the Special Union should, under normal circumstances, be sufficient to cover the expenses of the International Bureau for maintaining the international registration service, without requiring the payment of c contributions referred to in paragraph (3)(v), above.

(5)(a) For the purpose of establishing its contribution referred to in paragraph (3)(v) , each country of the Special Union shall belong to the same class as it belongs to in the International (Paris) Union for the Protection of Industrial Property, and shall pay its annual contribution on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed by all countries of the Special Union as the number of its units is to the total of the units of all contributing countries.

(c) The dates on which contributions are to be paid shall be fixed by the Assembly.

(d) A country which is in arrears in the payment of its contribution shall have no vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its vote if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

(c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the Financial Regulations.

(6) The amount of the charges due for services rendered by the International Bureau in relation to the Special Union shall be established by the Director General, who shall report on them to the Assembly.

(7)(a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the payment of each country to the fund or to an increase thereof shall be a proportion of the contribution of that country as a party to the Paris Convention for the Protection of Industrial Property for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(8)(a) In the Headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreement, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(9) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 12 [AMENDMENTS TO ARTICLES 9 TO 12]

(1) Proposals for the amendment of Articles 9, 10, 11 and the present Article may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 9, and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance have been received by the Director General from three-fourths of the countries members of the Assembly at the time it has adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force or which become members thereof at a subsequent date, except that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 13 [REGULATIONS; AMENDMENTS]

(1) The details for carrying out this Agreement are fixed in the Regulations.

(2) This Agreement may be revised by conferences held between the delegates of the Special Union.

ARTICLE 14 [RATIFICATION AND ACCESSION; TERRITORIES; ENTRY INTO FORCE; ACCESSION TO THE ORIGINAL ACT OF 1958]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2)(a) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of this Special Union.

(b) Notification of accession shall, in itself, ensure, on the territory of the acceding country, the benefit of the above provisions for appellations of origin which, at the time of the accession, are the subject of international registration.

(c) However, any country acceding to this Agreement may, within a period of one year, declare in regard to which appellations of origin, already registered at the International Bureau, it wishes to exercise the right provided in Article 5(3).

[*Article 11, continued*]

(3) Instruments of ratification or accession shall be deposited with the Director General.

(4) The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

(5)(a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless the country has indicated a subsequent date in its instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(6) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(7) After the entry into force of this Act, a country may accede to the original Act of October 31, 1958, of this Agreement only in conjunction with ratification of, or accession to, this Act.

ARTICLE 15 [DENUNCIATION]

(1) This Agreement shall remain in force as long as five countries at least are parties to it.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of October 31, 1958, of this Agreement and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

ARTICLE 16
[APPLICATION OF THE ORIGINAL ACT OF 1958]

(1) This Act shall, as regards the relations between the countries by which it has been ratified or acceded to, replace the original Act of October 31, 1958.

(2) However, any country which has ratified this Act or has acceded to it shall be bound by the original Act of October 31, 1958, in its relations with countries of the Special Union which have not ratified, or acceded to, this Act.

ARTICLE 17 [SIGNATURE, ETC.]

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the English, German, Italian, Portuguese, Russian and Spanish languages, and such additional languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, denunciations, and declarations pursuant to Article 14(2)(c) and (4).

ARTICLE 18

(1) Until the first Director General assumes office, references in the present Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the International Bureau of the Union established by the Paris Convention for the Protection of Industrial Property, or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the World Intellectual Property Organization, exercise, if they so desire, the rights provided under Articles 9 to 12 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General, this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

RESERVED being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 4, 1967 N° S/259
Subject (Union): Berne
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/9)

PROPOSAL SUBMITTED BY THE DELEGATION OF ITALY

Article 25*ter*: RESERVATIONS

Substitute the following text in paragraph (2):

"(2)(a) Any country of the Union ..... (the wording in the Programme)

(b) Any country outside the Union may, in acceding to the present Act, state that it intends to substitute, temporarily at least, in Article 8 concerning translations, the provisions of Article 5 of the Convention of the 1886 Union revised in Paris in 1896, on the clear understanding that those provisions refer only to translation into the language or languages of the country.

Any country of the Union that does not avail itself of that right of reservation shall have the right to apply the principle of equivalent protection in relation to the right of translation of works whose country of origin is a country that does avail itself of that right.

(c) Any country may, at any time, withdraw such reservations by notification addressed to the Director General."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/260
Subject (Union): Paris
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Draft Resolution concerning a Study on Priority Fees

For the convenience of the Delegations, hereinafter is reproduced the text of the draft resolution contained in document S/12 (page 23) to be considered by Main Committee IV:

"The countries members of the International (Paris) Union for the Protection of Industrial Property,

"In a Conference assembled at Stockholm from June 12 to July 14, 1967,

"RESOLVE that a study be carried out as to the desirability and the feasibility of financing part of the expenses of the International Bureau through the collection of a modest fee for each application filed with a national Administration if, in such application, Union priority is claimed.

"Should the study lead to positive results and should it show that the Paris Convention would require revision to introduce the scheme, concrete proposals should be worked out for the Vienna Revision Conference of the Paris Union."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/261
Subject (Union): Paris
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Draft Decision on the Ceiling of Contributions (Paris Union)

For the convenience of the Delegations, hereinafter is reproduced the text of the draft decision contained in document S/12 (pages 10 and 11) to be considered in Main Committee IV:

"The countries members of the International (Paris) Union for the Protection of Industrial Property,

"In a Conference of Plenipotentiaries assembled at Stockholm on July 14, 1966,

"Unanimously decide:

"That the maximum total amount of the ordinary yearly contributions of the member countries shall be the following:

- for 1968: 1,200,000 Swiss francs [US $ 278,000]*;
- for 1969: 1,400,000 Swiss francs [US $ 324,000]*;
- for 1970: 1,600,000 Swiss francs [US $ 370,000]*;

unless new decisions are made, or enter into force, in the meantime."

* The dollar figures will not appear in the final text.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/262
Subject (Union): Berne
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Draft Decision on the Ceiling of Contributions (Berne Union)

For the convenience of the Delegations, hereinafter is reproduced the text of the draft decision contained in document S/12 (pages 15 and 16) to be considered in Main Committee IV:

"The countries members of the International (Berne) Union for the Protection of Literary and Artistic Works,

"In a Revision Conference assembled at Stockholm from June 12 to July 14, 1967,

"Unanimously decide:

"That the maximum total amount of the yearly contributions of the member countries shall be the following:

- for 1968: 800,000 Swiss francs
- for 1969: 900,000 Swiss francs
- for 1970: 1,000,000 Swiss francs

unless new decisions are made, or enter into force, in the meantime."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/263
Subject (Union): Berne
Original: English and French
Distribution: Restricted

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

Texts prepared by the Secretariat for the Drafting Committee

Article 6bis

(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation.

(2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation at the moment of their ratification of or accession to this Act, do not provide for the complete protection after the death of the author of the rights set out in the preceding paragraph, may provide that some of these rights may, after his death, cease to be maintained.

Article 8

Authors of literary and artistic works protected by this Convention shall have the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

Draft Resolution I

The Intellectual Property Conference of Stockholm,

Considering that certain countries have expressed a desire for the term of protection of literary and artistic works to be extended,

that certain countries already grant a general term of protection in excess of 50 years after the death of the author,

that, moreover, several countries of the Union have extended the term of protection for reasons resulting from the war,

that negotiations have already taken place at international level with the object of providing for an extension of the term of protection by a Special Agreement,

that, in addition, Agreements have already been concluded between certain countries for the reciprocal recognition of an extension of the term of protection for reasons resulting from the war,

Expresses the wish that negotiations should be continued between the countries concerned for the conclusion of a Special Agreement on the extension of the term of protection in countries parties to that Agreement.

Draft Resolution II

The Intellectual Property Conference of Stockholm,

Having before it proposals to insert in the Berne Convention provisions under which

(i) the publisher of a literary, dramatico-musical or musical work published in a country of the Union should be under an obligation to deposit with the national library of that country, or with some other similar establishment, a facsimile of the earliest and most authentic copy of such work in the form approved by its author;

(ii) it should be a matter for the legislation of the countries of the Union to provide that, where a dramatico-musical or musical work has been made available to the public with the consent of the author thereof, the graphic copies of the said work should also be made accessible to the public without restrictions contrary to fair practice;

Considers sympathetically the spirit behind these proposals and the purpose which they seek to achieve; and

Expresses the wish that the International Bureau of the Berne Union should undertake a careful study of the above questions, in order that consideration may be given, if necessary, to the possibility of including them in a future revision of the Convention.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/264
Subject (Union): Paris and Berne
Original: English
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

AMENDMENT TO ARTICLE 13(4)(c) OF THE PARIS AND BERNE CONVENTIONS

Proposal by the Working Group appointed by Main Committee IV

(c) If, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may meet. Its decisions other than those concerning its own procedure may be carried out only if the conditions referred to in the following subparagraph are met.

Proposal A

(c-bis) The International Bureau shall communicate such decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention. Such decisions shall take effect when the number of countries having thus expressed their vote or abstention attains the number of countries which, for attaining the quorum in the session itself, was lacking, provided that, at the same time, the required majority is not lost.

Proposal B

(c-bis) The International Bureau shall communicate such decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which, for attaining the quorum in the session itself, was lacking, such decisions shall take effect provided that, at the same time, the required majority is not lost.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 5, 1967 N° S/265
Subject (Union): Paris and Berne
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

RELATIONS BETWEEN COUNTRIES OF THE UNION

(Note of the Secretariat)

I. BERNE CONVENTION

A.

The Working Group of Main Committees II and IV has adopted the following text to replace paragraphs (1) and (2) of Article 27 in document S/9:

"(1) The present Act shall, as regards the relations between the countries of the Union, and to the extent that it applies, replace the Berne Convention of September 9, 1886, and the subsequent Acts of revision. The Acts previously in force shall continue to be applicable, in their entirety or to the extent that the present Act does not replace them by virtue of the preceding sentence, in relations with countries of the Union which do not ratify or accede to this Act."

Note: With the exception of a few slight drafting changes and the parts underlined, the insertion of which is necessary because of the faculty provided for in Article 25(1)(b) (document S/9) - the above text is the same as that contained in the Brussels Act.

B.

It is proposed to omit Article 27(3) (document S/9). This proposal is in conformity with the proposal contained

in document S/9/Corr.1. Reference is made to the fact that the Brussels Act does not contain a provision on the question dealt with in the said paragraph.

C.

For information, it should be recalled that Main Committees II and IV have adopted the following text of a new paragraph to be inserted in Article 27:

"Any country which, in ratifying or acceding to the present Act, has made the reservations permitted under the Protocol annexed to this Act, may apply these reservations in their relations with other countries of the Union which are not party to this Act or which, although party to this Act, have made a declaration as permitted by Article 25(1)(b)(i), provided that the latter countries have accepted the application of the said reservations."

II. Paris Convention

Parallel to what has been said under A and B, it is proposed to adopt Article 18 in the form contained in document S/3, but without paragraph (3), the deletion of which was already proposed in document S/3/Corr.1

BIRPI
BUREAUX INTERNATIONAUX RÉUNIS
POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE

Date: July 6, 1967 N° S/266
6 juillet 1967
Sujet Subject (Union): All Unions Toutes Unions
Original: English - français
Distribution: Main Committee IV
Commission principale IV

CONFÉRENCE DE STOCKHOLM DE LA PROPRIÉTÉ INTELLECTUELLE, 1967

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

MEMORANDUM DU COMITE DE REDACTION DE LA COMMISSION PRINCIPALE IV

(Président : M. R. Labry(France))

Le Comité de rédaction s'est mis d'accord, dans sa séance du 6 juillet 1967, sur les modifications à apporter aux textes des Conventions et des Arrangements.

MEMORANDUM OF THE DRAFTING COMMITTEE OF MAIN COMMITTEE IV

(Chairman: Mr. R. Labry (France))

The Drafting Committee has agreed, at its meeting July 6, 1967, on the following amendments to the texts of the Conventions and Agreements.

- I -

A

Draft Resolution concerning
a Study on Priority Fees

"The countries members of the Paris Union for the Protection of Industrial Property,

"In a Conference assembled at Stockholm from June 12 to July 14, 1967,

"RESOLVE that the International Bureau study, in cooperation with Committees of Experts, the desirability and the feasibility of creating new sources of revenue for the International Bureau, through the collection of a modest fee for each application filed with a national Administration if, in such application, the right of priority provided for in the Convention of the Union is claimed.

"Should the study lead to positive results and should it show that the Paris Convention would require revision to introduce the scheme, concrete proposals should be worked out for the Vienna Revision Conference of the Paris Convention."

B. Draft Decision on the Ceiling of Contributions (Paris Union)

"The countries members of the Paris Union for the Protection of Industrial Property,

"In a Conference of Plenipotentiaries assembled at Stockholm on July 14, 1967,

"Unanimously decide:

"That the maximum total amount of the ordinary yearly contributions of the member countries shall be the following:

- for 1968: 1,200,000 Swiss francs

- for 1969: 1,400,000 Swiss francs

- for 1970: 1,600,000 Swiss francs

unless new decisions are made, or enter into force, in the meantime."

C. DRAFT DECISION ON THE CEILING OF CONTRIBUTIONS (BERNE UNION)

"The countries members of the Berne Union for the Protection of Literary and Artistic Works,

"In a Revision Conference assembled at Stockholm from June 12 to July 14, 1967,

"Unanimously decide:

"That the maximum total amount of the yearly contributions of the member countries shall be the following:

- for 1968: 800,000 Swiss francs
- for 1969: 900,000 Swiss francs
- for 1970: 1,000,000 Swiss francs

unless new decisions are made, or enter into force, in the meantime."

II

Replace

Article 13(4)(c) in the Paris Convention:
Corresponding Article in the Berne Convention:
(Article 6(3)(c) in the WIPO Convention):
by the following text:

"(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries (States) represented is less than one-half but equal to or more than one-third of the countries (States) members of the (General) Assembly, the (General) Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the countries (States) members of the (General) Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries (States) having thus expressed their vote or abstention attains the number of countries (States) which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority is not lost."

III

Article 23 (Paris Convention) and the corresponding article in the Berne Convention should read as follows:

"After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention."

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BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date:
Subject (Union):
Original:
Distribution:

N° S/267

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

This number was not used.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 6, 1967 N° S/268
Subject (Union): Berne
Original: Français
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY THE DELEGATION OF SWITZERLAND CONCERNING ARTICLE 27(3) OF DOCUMENT S/2

Main Committee IV decided on July 5 to delete the paragraph concerned. A compromise which had been suggested by the Chairman of the joint meeting of Main Committees II and IV was not adopted by any of the delegations, so that the question was not put to the vote. Upon reflection, the Delegation of Switzerland is not satisfied with the said decision and proposes, in the hope that its suggestion will not meet with opposition:

(1) to re-open the discussion on this question, and

(2) to draft paragraph (3) along the lines of the compromise referred to above, in the following terms: "(3) As regards any country of the Union which is not party to the Stockholm Act or which, although party to that Act, has made a declaration pursuant to Article 25(1)(b)(i), the countries party to this Act shall apply the present Act, while permitting the other country to apply in its relations with them the provisions of the last Act to which it is party and allowing it the right to adapt the level of protection under that Act to the level guaranteed by this Act."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 6, 1967 N° S/269
Subject (Union): Berne
Original: English/French
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (document S/1)

Texts proposed by the Drafting Committee

Preamble

. . . . . .,

Being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works,

Have resolved to revise and to complete the Act signed at Berne on September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, and revised at Brussels on June 26, 1948.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

Article 1

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works

and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7, paragraph (4), of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special

protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

(8) The protection of this Convention shall not apply to news of the day nor to miscellaneous facts having the character of mere items of press information.

Article 2bis

(1) It shall be a matter for legislation in the countries of the Union to exclude, wholly or in part, from the protection provided by the preceding Article political speeches and speeches delivered in the course of legal proceedings.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press, broadcast, communicated to the public by wire and made the subject of public communication as envisaged in Article 11bis, paragraph (1), of this Convention, when such use is justified by the informatory purpose.

(3) Nevertheless, the author shall enjoy the exclusive right of making a collection of his works mentioned in the preceding paragraphs.

Article 3

(1) The protection of this Convention shall apply to

(a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;

(b) authors who are not nationals of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purpose of this Convention, be assimilated to nationals of that country.

(3) The expression "published works" means works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(4) A work shall be considered as having been published simultaneously in several countries if it has been published in two or more countries within thirty days of its first publication.

Article 4

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to

(a) authors of cinematographic works, the maker of which has his headquarters or habitual residence in one of the countries of the Union;

(b) authors of works of architecture, erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

Article 5

(1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.

(3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.

(4) The country of origin shall be considered to be

(a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection;

(b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;

(c) in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:

(i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country, and

(ii) when these are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

Article 6

(1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the other country and are not habitually resident in one of the countries of the Union. If the country of first publication avails itself of this right, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.

(2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.

(3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the .... by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are nationals of those countries are subjected. The .... shall immediately communicate this declaration to all the countries of the Union.

Article 6bis

(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation

or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation.

(2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation at the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph, may provide that some of these rights may, after his death, cease to be maintained.

Article 7

(1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death.

(2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.

(3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.

(4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied arts in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

(5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4), shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the 1st January of the year following the death or such event.

(6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.

(7) Those countries of the Union bound by the Rome Act of this Convention which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraphs, shall have the right to maintain such terms when ratifying or acceding to the present Act.

(8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

Article 7bis

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

Article 8

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

Article 9

:) Authors of literary and artistic works protected by this Convention
:all have the exclusive right of authorizing the reproduction of these works,
: any manner or form. [, including sound or visual recordings.]

:) It shall be a matter for legislation in the countries of the Union to
:rmit the reproduction of such works in certain special cases, provided
:at such reproduction does not conflict with a normal exploitation of the
:rk and does not unreasonably prejudice the legitimate interests of the
:thor.

:) It shall also be a matter for legislation in the countries of the
:ion to permit the reproduction by the press or the broadcasting of
:ticles published in newspapers or periodicals on current economic
:litical or religious topics, [and of broadcast programs of the same
:aracter] in cases in which the reproduction or the broadcasting thereof
: not expressly reserved. Nevertheless, the source must always be clearly
:dicated; the legal consequences of a breach of this obligation shall be
:termined by the legislation of the country where protection is claimed.

Article 10

:) It shall be permissible to make quotations from a work which has
:ready been lawfully made available to the public, provided that their
:king is compatible with fair practice, and their extent does not exceed
:at justified by the purpose, including quotations from newspaper articles
:d periodicals in the form of press summaries.

:) It shall be a matter for legislation in the countries of the Union,
:d for special agreements existing or to be concluded between them, to
:rmit the utilization, to the extent justified by the purpose, of literary
: artistic works by way of illustration in publications, broadcasts or
:und or visual recordings for teaching, provided such utilization is
:mpatible with fair practice.

:) Where use is made of works in accordance with the preceding paragraphs
: this Article, mention shall be made of the source and of the name of
:e author, if it appears thereon.

Article 10bis

It shall be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

Article 11

(1) Authors of dramatic, dramatico-musical and musical works shall enjoy the exclusive right of authorizing:

(i) the public performance of their works, including such public performance by any means or process;

(ii) any communication to the public of the performance of their works.

(2) Authors of dramatic or dramatico-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 11bis

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

(2) It shall be a matter for legislation in the countries of the Union to determine the conditions under which the rights mentioned in the preceding paragraph may be exercised, but these conditions shall apply only in the countries where they have been prescribed. They shall not in any circumstances be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) In the absence of any contrary stipulation, permission granted in accordance with paragraph (1) of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast. It shall, however, be a matter for legislation in the countries of the Union to determine the regulations for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

Article 11ter

(1) Authors of literary works shall enjoy the exclusive right of authorizing:

(i) the public recitation of their works, including such public recitation by any means or process;

(ii) any communication to the public of the recitation of their works.

(2) Authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 12

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any words which, with the consent of the author of those words, are normally performed with that work, of authorizing the sound recording of that work, with those words, if any, but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the author's right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) Recordings of musical works made in a country of the Union in accordance with Article 13, paragraph (3), of the Convention signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until a date two years after that country becomes bound by this Act.

(3) Recordings made in accordance with paragraphs (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

Article 14

(1) Authors of literary or artistic works shall have the exclusive right of authorizing:

(i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;

(ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.

(2) The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original work.

(3) The provisions of Article 13, paragraph (1), shall not apply.

Article 14bis

(1) Without prejudice to the copyright in any work which may have been adapted or reproduced, a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

(2) (a) Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

(b) However, in the countries of the Union which, by legislation, include among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work, such authors, if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public or to the subtitling or dubbing of texts of the work.

(c) The form of the undertaking referred to above, which any country of the Union may require to be in a written agreement or something having the same force, shall be governed by the legislation of the country where the maker of the cinematographic work has his headquarters or habitual residence.

(d) By "contrary or special stipulation" is meant any restrictive condition which is relevant to the aforesaid undertaking.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work.

Article 14ter

(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

Article 15

(1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.

(2) The person or body corporate whose name appears on a cinematographic work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.

(3) In the case of anonymous and pseudonymous works, other than those referred to in the preceding paragraph, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and in this capacity he shall be entitled to protec and enforce the author's rights. The provisions of this paragraph shall cease to apply when the author reveals his identity and establishes his claim to authorship of the work.

(4) (a) In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, or has his habitual residence in such country, it shall be a matter for legislation in that country to designate the competent authority who shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.

(b) Countries of the Union which make such designation under the terms of this provision shall notify the ..... by means of a writ declaration giving full information concerning the authority thus

designated. The ..... shall at once communicate this declaration to all other countries of the Union.

Article 16

(1) Infringing copies of a work shall be liable to seizure in any country of the Union where the work enjoys legal protection.

(2) The provisions of the preceding paragraph shall also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.

(3) The seizure shall take place in accordance with the legislation of each country.

Article 17

The provisions of this Convention shall not in any way prejudice the right of each country of the Union to control or to prohibit, by the measures provided by the legislation of that country, the distribution, performance, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

Article 18

(1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.

(2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew.

(3) The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle.

(4) The preceding provisions shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservations.

Article 19

The provisions of this Convention shall not preclude the making of a claim to the benefit of any greater protection which may be granted by legislation in a country of the Union.

Article 20

The Governments of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements which satisfy these conditions shall remain applicable

Draft Resolution I

The Intellectual Property Conference of Stockholm,

Considering that certain countries have expressed a desire for the general term of protection of literary and artistic works to be extended,

that certain countries already grant a term of protection in excess of fifty years after the death of the author,

that, moreover, several countries of the Union have extended the term of protection, for reasons resulting from the war,

that negotiations have already taken place at international level with the object of providing for an extension of the term of protection by a special agreement,

that, in addition, bilateral agreements have already been concluded between certain countries for the reciprocal application of extensions of terms of protection, for reasons resulting from the war,

Expresses the wish that negotiations should be pursued between the countries concerned for the conclusion of a multilateral agreement on the extension of the term of protection in countries parties to that agreement.

Draft Resolution II

The Intellectual Property Conference of Stockholm,

Having before it proposals to insert in the Berne Convention provisions under which

(i) the publisher of a literary, dramatico-musical or musical work published in a country of the Union should be under an obligation to deposit with the national library of that country, or with some other similar establishment, a facsimile of the earliest and most authentic copy of such work in the form approved by its author;

(ii) it should be a matter for the legislation of the countries of the Union to provide that, where a dramatico-musical or musical work has been made available to the public with the consent of the author thereof, the graphic copies of the said work should also be made accessible to the public without restrictions contrary to fair practice;

Considers sympathetically the spirit and purpose of these proposals, subject always to the protection of the rights of authors of such works; and

Expresses the wish that the International Bureau of the Berne Union should undertake a study of the above questions, in order that consideration may be given to the possibility of including provisions relating to them in a future revision of the Convention.

ADDENDUM

to document S/269

Exceptions to the exclusive right of translation

Excerpt of the report:

"The provisions of this Convention which permit a work or a part thereof to be used without the authorization of the author, - that is to say Articles 2bis(2), 9(2), 9(3), 10(1), 10(2), 10bis, 11bis and 13 - permit the work to be used not only in the original but also in translation, subject to the same conditions, in particular that the use is in conformity with fair practice. It should be added that in these cases, as in all cases where a work is used, the rights given to an author under Article 6bis (moral rights) are reserved."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: June 7, 1967 N° S/270
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

DRAFT REPORT

The protection of authors' rights in countries that have recently gained independence is one of the problems that has solicited the attention of the Swedish Government as the host country of the Revision Conference and that of BIRPI for several years. The history of the preparatory studies and proceedings is to be found in document S/1 (pages 67 to 74).

After that report had been presented, there was an important event in this domain, whose influence has been apparent both on the discussion and on the results of the Conference: we refer to the East Asian Seminar on copyright, which was held at New Delhi in January, 1967.

At the proposal of the Government of Sweden, a Special Committee was set up to produce a definitive text on the basis of document S/1. The Special Committee referred to in the Conference documents as Main Committee II - met nine times. It appointed two Working Groups for certain special problems, one to consider basic matters (Chairman: Mr. Nesser (Sweden): members: Czechoslovakia, France, India, Ivory Coast, Tunisia, United Kingdom), and the other to consider definition of the criterion of countries that would have the right to avail themselves of this Protocol (Chairman: Mr. Lennon (Ireland); members: Brazil,

Congo (Kinshasa), Czechoslovakia, France, India, Italy, Ivory Coast, Senegal, Sweden, Tunisia, United Kingdom).

Several amendments were submitted on the definition of countries beneficiaries of the Protocol for clarification of the general wording appearing in the Preamble to the first Article of the Protocol: the object of a proposal by France (document S/176) was to make countries that acceded to the Berne Union only after the signing and entry into force of the Brussels Convention beneficiaries of the provisions of the Protocol; a proposal by Italy (document S/213) introduced technical criteria (illiteracy, school attendance) into the idea of a developing country; two proposals, one by the United Kingdom (document S/149), and the other by Denmark, Finland, Norway and Sweden (document S/253), envisaged as a solution an international authority competent to decide in each case (the Executive Committee of the Berne Convention in the former and the General Assembly of the United Nations in the latter proposal). After discussion, the Working Group proposed to Main Committee a text referring to Resolution No. 1897 (XVIII) adopted by the General Assembly of the United Nations at its eighteenth meeting on November 18, 1963, for application to any country subsequently designated a developing country. A proposal of the Ivory Coast (document S/234) brought that list up to date by adding seven new States to it.

The Committee recognized the problem and, while accepting the idea that the countries listed in the Annexes to document S/249 should be beneficiaries of the additional Protocol, it noted that simple reference to the decisions of the United Nations would entail a delay for countries that had recently gained their independence that would prevent them from acceding to the Convention and the Protocol immediately or at least before a decision by the United Nations. A more flexible wording was

sought. A joint proposal of the Delegations of Denmark, Finland, Norway and Sweden submitted in document S/253 stipulated that a developing country would be considered to be any country designated as such under the established practice of the General Assembly of the United Nations, it being understood that the term "established practice" implied that the country concerned receives assistance from the United Nations or its Specialized Agencies such as UNESCO. That wording therefore applies not only to the countries referred to in the Annexes to the above document, but also opens the door to the accession of other countries. The final text was produced by the Drafting Committee of Main Committee II under the chairmanship of Mr. Essen (Sweden) (members: Mr. Abi-Sad (Brazil), Mr. Strnad (Czechoslovakia), Mr. Desbois (France), Mr. Krishnamurti (India), Mr. Ciampi (Italy), Mr. Amon d'Aby (Ivory Coast), Mr. Goundiam (Senegal), Mr. Fersi (Tunisia), Mr. White (United Kingdom)) and adopted by Main Committee II at its final meeting.

The basic provisions were also examined on the basis of document S/1 submitted by the Government of Sweden and BIRPI. In the course of the proceedings of the Conference they underwent the following changes.

As an outcome of the insertion of Article 9, paragraph (2) of the Rome Convention of 1928 and the Brussels Convention of 1948 into a new draft of the text of the Convention itself, in which it appears as Article 9(3), this Article became superfluous in the Protocol and was deleted.

A group of countries (Congo (Brazzaville), Congo (Kinshasa), Ivory Coast, Gabon, India, Madagascar, Morocco, Niger, Senegal and Tunisia) submitted a new drafting of the text of the Protocol

(document S/160), stemming from document S/1 and adopting its scheme, but adding certain new features.

The translation licence combines the translation licence referred to in Article 27 of the Convention and traditional in the Berne Union, certain elements of the licence referred to in Article 5 of the Univers Copyright Convention; the definition of the languages into which the translation may be made has been clarified.

Several proposals were submitted for regulating the régime of published works on the basis of a legal licence (the proposals of Italy document S/162; of Denmark, document S/146; of Greece, document S/15 and of Israel, document S/199). Japan made a proposal in document S/ for simplification of the translation licence by simply taking over system as it existed in the Berne Convention.

The result of the proceedings of the Working Group and of Main Committee II, which is set out in document S/249, corresponds with certain slight alterations to the desire to replace the text of Article of the Paris Convention of 1896 quoted in paragraph (a) of Article 1 of the Protocol by an up-to-date wording without basically affecting even the provisions in force.

The principles of the Universal Copyright Convention (see Article 5(2) and (5)), which enter into the system of the translation licence provided for by the Protocol (Article 1, paragraph (a)(iv)) have also undergone modification: the compensation stipulated should be just and the explicit reference to international usage in this matter was deleted; the transmittal of such compensation, also referred to in

the above Article of the Universal Copyright Convention, is made subject to national currency regulations by the text of the additional Protocol.

It should be noted that neither of the International Conventions that might be regarded as having served as a model for paragraph (a) of the first Article of the Protocol stipulates precisely where a translation must be published by the author himself if he does not wish a legal licence to come into force. Article 5 of the Paris Convention of 1896 merely stipulates that the publication of such a translation must take place in a country of the Union. The additional Protocol adds an important clarification: the translation must be published in the country invoking the reservation concerning the translation licence. Publication does not mean printing in the strict sense; this is an essential distinction for countries that do not possess even the technical means needed to publish translations or reproductions under the conditions laid down by the additional Protocol.

Paragraph (c) of the first Article of the additional Protocol, which concerns the radio-diffusion of literary and artistic works, permits the countries beneficiaries of the Protocol to substitute for paragraph (1) and paragraph (2) of this Convention the text of the Rome Convention of 1928 with two changes. The first, which represents a modernization of the text, is to replace the words "communication by radio-diffusion" of the Rome Convention of 1928 by the word "radio-diffusion". The second change settles a basic matter: the public communication of broadcast works for profit-making purposes shall not be permitted except on payment of equitable remuneration fixed, in the absence of agreement, by competent authority. That addition takes over the wording of the proposal by the Delegation of the United Kingdom (document S/149, paragraph (2)).

The proposals on the right of reproduction contained in paragraph (1)(e) of document S/1 have undergone profound modification. After discussion and examination of the various proposals (see the proposal of the United Kingdom, document S/149, paragraph (3) and the joint proposal of ten developing countries, document S/160), the Working Group proposed the text contained in document S/249, Article 1, paragraph (d). The final solution adopted for this reproduction licence is a copy of the translation licence to the extent that the analogy is possible. It provides for the possibility of the introduction of a reproduction licence for educational or cultural purposes - the wording should not be interpreted in a restrictive manner, given that the addition "exclusively for ... purposes ... " was intentionally deleted.

On the other hand, restriction of the right of reproduction to educational or cultural purposes excludes from the field of application of this reservation all works whose educational or cultural purpose is evident; as an example, detective and adventure stories were mentioned in the discussion.

The procedure to be followed in order to obtain such a licence, the conditions concerning payment of the compensation, the place of publication, respect for the right of the author to change his mind, and the possibility of having recourse to such a licence even after the copies of the original edition of the work are out of print have been established on the same basis as for translations.

A new possibility for restriction open to domestic legislation has been adopted for uses destined <u>exclusively for teaching, study and research in all fields of education.</u> It should be noted that that

reservation does not apply solely to the right of translation and reproduction; it may also be invoked equally for the other uses of literary and artistic works. A new formula has been inserted for the determination of compensation, by which the latter shall "conform to standards of payment made to national authors". The addition of the words "in all fields of education" and the exclusivity of the purposes for which the reservation can be utilized indicate that industrial, commercial and similar research is outside the scope of this reservation.

The term of protection has been decided without change in the manner proposed by the Government of Sweden with the assistance of BIRPI. The term of protection may therefore be fixed by domestic legislation at a period less than the compulsory term of fifty years referred to in Article 7 of the Convention.

The above reservations may be maintained for ten years from the time of ratification by the country concerned (see paragraph (1) (in fine)); countries that do not consider themselves in a position to withdraw the reservations made under this Protocol, may continue to maintain them until they accede to the Act adopted by the next Revision Conference; the "maintaining of reservations" therefore implies that it will be essential for a declaration in that sense to be addressed to the Director General of WIPO by the country concerned, and that in default thereof the reservations shall cease to be applicable. The country concerned would then be bound by the Convention itself.

Various proposals made in the course of the Conference by the Delegations present, and concerning one or other of the problems mentioned above, have either been incorporated in the final text or withdrawn (see for example publication of serials, abridgements or translations in

newspapers or periodicals, document S/160, or the provisions for the institution of certain measures of control over the application of the additional Protocol submitted by the Delegation of Israel, document S/1 or have found their place in a resolution (for example the creation of a fund intended for the authors of works affected by the reservations stipulated in the Protocol, as proposed by the Delegation of Israel, document S/228).

Another question that was the subject of consideration by the developing countries in the course of the preparatory proceedings, that of the protection of folklore, was resolved by Article 15, paragraph (3) of the Convention itself.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 7, 1967 N° S/270/Rev.
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

REPORT

1. The protection of authors' rights in countries that have recently gained independence is one of the problems that has solicited the attention of the Swedish Government as the host country of the Revision Conference and that of BIRPI for several years. The history of the preparatory studies and proceedings is to be found in document S/1 (pages 67 to 74).

2. After the publication of document S/1, there was an important event in this domain, whose influence has been apparent both on the discussion and on the results of the Conference. We refer to the East Asian Seminar on copyright, which was held at New Delhi in January, 1967.

3. At the proposal of the Government of Sweden, a Main Committee was set up to produce a definitive text on the basis of document S/1. This Main Committee--referred to in the Conference documents as Main Committee II--met nine times. It appointed two Working Groups for certain special problems, one to consider basic matters (Chairman: Mr. Hesser (Sweden); members: Czechoslovakia, France, India, Ivory Coast, Tunisia, United Kingdom), and the other to consider the definition of the criterion of countries that would have the right to avail themselves of this Protocol (Chairman: Mr. Lennon (Ireland); members: Brazil, Congo (Kinshasa), Czechoslovakia, France, India, Italy, Ivory Coast, Senegal, Sweden, Tunisia, United Kingdom).

4. Several amendments were submitted with respect to the definition of countries beneficiaries of the Protocol mentioned in the Preamble to the first Article of the Protocol with a view to the clarification of the general formula: the object of a proposal by France (document S/176) was to make countries that acceded to the Berne Union only after the signing and entry into force of the Brussels Convention beneficiaries of the provisions of the Protocol; a proposal by Italy (document S/213) introduced technical criteria (illiteracy, school attendance) into the idea of a developing country; two proposals, one by the United Kingdom (document S/149), and the other by Denmark, Finland, Norway and Sweden (document S/253), suggested as a solution an international authority competent to decide in each case (the Executive Committee of the Berne Convention in the former and the General Assembly of the United Nations in the latter proposal). After discussion, the

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Working Group proposed to Main Committee II a text referring to Resolution No.1897 (XVIII) adopted by the General Assembly of the United Nations at its eighteenth meeting on November 13, 1963, for application to any country subsequently designated a developing country. A proposal of the Ivory Coast (document S/234) brought that list up to date by adding seven new African States to it.

5. The Committee dealt with the question and, while accepting the idea that the countries listed in the Annexes to document S/249 should be beneficiaries of the additional Protocol, it noted that sir reference to the decisions of the United Nations would entail a dela for countries that had recently gained their independence that would prevent them from acceding to the Convention and the Protocol immediately or at least before a decision by the United Nations. A more flexible wording was sought. A joint proposal of the Delegati of Denmark, Finland, Norway and Sweden submitted in document S/253 stipulated that a developing country would be considered to be any country designated as such under the established practice of the General Assembly of the United Nations, it being understood that the term "established practice" implies that the country concerned recei assistance from the United Nations Development Programme through the United Nations or its Specialized Agencies. The country which consi that it is in a position to have recourse to the Protocol shall noti the Director General of ..... who shall, if necessary, after consultation with the organs of the United Nations, communicate the notification to the other countries Members of the Union together wit his observations. The final text was produced by the Drafting Commit of Main Committee II under the chairmanship of Mr. Essen (Sweden) (members: Mr. Abi-Sad (Brazil), Mr. Strnad (Czechoslovakia), Mr. Des (France), Mr. Krishnamurti (India), Mr. Ciampi (Italy), Mr. Amon d'A (Ivory Coast), Mr. Goundiam (Senegal), Mr. Fersi (Tunisia), Mr. White (United Kingdom)). The text was adopted by Main Committee II at its final meeting.

6. The substantive provisions were also examined on the basis of document S/1 submitted by the Government of Sweden and BIRPI. The o the items included in the Protocol was altered by the Drafting Commit so that the provisions concerning the period of protection--following the system of the Convention itself--were put before the substantive questions; the others were inserted after the latter. In the course the proceedings of the Conference they underwent the following change

7. As an outcome of the insertion of Article 9, paragraph (2) of the Rome Convention of 1928 and the Brussels Convention of 1948 in a new draft of the text of the Convention itself, in which it appears as Article 9(3), this Article mentioned in paragraph (c) in Article 1 of document S/1, became superfluous in the Protocol and was deleted.

8. A group of countries (Congo (Brazzaville), Congo (Kinshasa), Gab India, Ivory Coast, Madagascar, Morocco, Niger, Senegal and Tunisia) submitted a new drafting of the text of the Protocol (document S/163) stemming from document S/1 and adopting its scheme, but adding certai new features.

9. The term of protection has been decided without change in the man proposed by the Government of Sweden with the assistance of BIRPI. T term of protection may therefore be fixed by domestic legislation at a period less than the compulsory term of fifty years referred to in

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Article 7 of the Convention.

10. The translation license combines the translation license referred to in Articles 25 and 27 of the Convention and traditional in the Berne Union with certain elements of the license referred to in Article 5 of the Universal Copyright Convention; the definition of the languages into which the translation may be made has been clarified.

11. Several proposals were submitted for regulating the régime of published works on the basis of a legal license (the proposals of Italy, document S/162; of Denmark, document S/146; of Greece, document S/181; and of Israel, document S/199). Japan made a proposal in document S/127 for simplification of the translation license by simply taking over the system as it existed in the Berne Convention.

12. The result of the proceedings of the Working Group and of Main Committee II, which is set out in document S/249, corresponds with certain slight alterations to the desire to replace the text of Article 5 of the Paris Convention of 1896 quoted in paragraph (a) of Article 1 of the Protocol by an up-to-date wording without basically affecting even the provisions in force.

13. The principles of the Universal Copyright Convention (see Article 5(2) and (5)), which enter into the system of the translation license provided for by the Protocol (Article 1, paragraph (a)(iv)) have also undergone modification: the compensation stipulated should be just and the explicit reference to international usage in this matter was deleted; the transmittal of such compensation, also referred to in the above Article of the Universal Copyright Convention, is made subject to national currency regulations by the text of the additional Protocol.

14. It should be noted that neither of the International Conventions that might be regarded as having served as a model for paragraph (b) of the first Article of the Protocol stipulates precisely where a translation must be published by the author himself if he does not wish a legal license to come into force. Article 5 of the Paris Convention of 1896 merely stipulates that the publication of such a translation must take place in a country of the Union. The additional Protocol adds an important clarification: the translation must be published in the country invoking the reservation concerning the translation license. Publication does not mean printing in the strict sense; this is an essential distinction for countries that do not possess even the technical means needed to publish translations or reproductions under the conditions laid down by the additional Protocol.

15. The proposals on the right of reproduction contained in paragraph (1)(e) of document S/1, corresponding to paragraph (1)(c) of the final text, have undergone profound modification. After discussion and examination of the various proposals (see the proposal of the United Kingdom, document S/149, paragraph (3) and the joint proposal of ten developing countries, document S/160), the Working Group proposed the text contained in document S/249, Article 1, paragraph (d). The final solution adopted for this reproduction license is a copy of the translation license to the extent that the analogy is possible. It provides for the possibility of the introduction of a reproduction license for educational or cultural purposes--the wording should not be interpreted in a restrictive manner, given

that the addition "exclusively for ..... purposes ....." was intentionally deleted.

16. On the other hand, restriction of the right of reproduction to educational or cultural purposes excludes from the field of applicati of this reservation all works whose educational or cultural purpose i not evident; as an example, detective and adventure stories were mentioned in the discussion.

17. The procedure to be followed in order to obtain such a license, the conditions concerning payment of the compensation, the place of publication, respect for the right of the author to change his mind, and the possibility of having recourse to such a license even after the copies of the original edition of the work are out of print have been established on the same basis as for translations.

18. Paragraph (d) of the first Article of the additional Protocol, which concerns the radio-diffusion of literary and artistic works, permits the countries beneficiaries of the Protocol to substitute for paragraph (1) and paragraph (2) of this Convention the text of the Rome Convention of 1928 with two changes. The first, which represents a modernization of the text, is to replace the words "communication by radio-diffusion" of the Rome Convention of 1928 by the word "radio-diffusion". The second change settles a basic matter the public communication of broadcast works for profit-making purpose shall not be permitted except on payment of equitable remuneration fixed, in the absence of agreement, by competent authority. That addition takes over the wording of the proposal by the Delegation of the United Kingdom (document S/149, paragraph (2)).

19. A new possibility for restriction open to domestic legislation has been adopted for uses destined exclusively for teaching, study or research in all fields of education. It should be noted that that reservation does not apply solely to the right of translation and reproduction; it may also be invoked equally for the other uses of literary and artistic works. A new formula has been inserted for the determination of compensation, by which the latter shall "conform to standards of payment made to national authors". The addition of the words "in all fields of education" and the exclusivity of the purposes for which the reservation can be utilized indicate that industrial or commercial research or research of the same nature is outside the scope of this reservation.

20. In the case of copies of works translated and reproduced on the basis of the reservations in a country availing itself of the additio Protocol, the general principle adopted is that their export and sale are not permitted in a country not availing itself of these reservati The prohibition does not apply if the legislation of a country which cannot avail itself of the additional Protocol, or the agreements concluded by that country, authorize such importation. The reference to national legislation and to agreements concluded has been replaced in the case of the works mentioned in Article 1(c), by the condition of the agreement of the author. An example quoted in the discussions was that of a translation made in India which could be imported into Ceylon but not into Japan. In the same paragraph it has been made clear that only copies of a work published in a country for the relevant educational purposes may be imported and sold in other countries availing themselves of the reservations; the effect,

therefore, is that such copies will be in a language relevant to the educational needs of that country.

21. The above reservations may be maintained for ten years from the time of ratification by the country concerned (see paragraph (1) (in fine)); countries that do not consider themselves in a position to withdraw the reservations made under this Protocol, may continue to maintain them until they accede to the Act adopted by the next Revision Conference; the "maintaining of reservations" therefore implies that it will be essential for a declaration in that sense to be addressed to the Director General of ..... by the country concerned, and that in default thereof the reservations shall cease to be applicable. The country concerned would then be bound by the Convention itself. Various proposals made in the course of the Conference by the Delegations present, and concerning one or other of the problems mentioned above, have either been incorporated in the final text or withdrawn (see for example publication of serials, abridgements or translations in newspapers or periodicals, document S/160, or the provisions for the institution of certain measures of control over the application of the additional Protocol submitted by the Delegation of Israel, document S/199, or have found their place in a resolution (for example the creation of a fund intended for the authors of works affected by the reservations stipulated in the Protocol, as proposed by the Delegation of Israel, document S/228).

22. Article 4 was added to the text as the result of a proposal by the United Kingdom which was adopted by Committee II at its eighth meeting. Even a developing territory judged by the same principles as sovereign countries which has not acceded to independence by the day on which the Convention is signed may enjoy the benefits of the additional Protocol.

23. The reference to the practice established by the United Nations made it necessary to solve the problem of the legal consequences of a contrary situation, namely to deal with the case of a country from which the status of developing country might be withdrawn. The solution proposed by the Drafting Committee is that this country will no longer be able to avail itself of the Protocol at the expiry of a period of six years from the appropriate notification.

24. To provide a possibility for developing countries to benefit immediately from the additional Protocol, an Article 5 has been added to the text, offering this possibility even before the text of the Convention itself has been ratified within the meaning of Article 25(1)(b)(i).

Another question that was the subject of consideration by the developing countries in the course of the preparatory proceedings, that of the protection of folklore, was resolved by Article 15, paragraph (3) of the Convention itself.

25. With regard to this Article, the Delegations of Czechoslovakia, India, Israel and Tunisia made statements evidencing their opposition in principle to clauses of this kind in Conventions.

Vojtěch ŠTRNAD

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/270/Rev.1/
Subject (Union): Berne Corr.1
Original: French/English
Distribution: Main Committee II

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

CORRIGENDA

1. On page 4 of document S/270/Rev., substitute the following for paragraph 20:

20. In the case of copies of works translated and reproduced on the basis of the reservations in a country availing itself of the additional Protocol, the general principle adopted is that their export and sale are not permitted in a country not availing itself of these reservations. The prohibition does not apply if the legislation of a country which cannot avail itself of the additional Protocol, or the agreements concluded by that country, authorize such importation. The reference to national legislation and to agreements concluded has been replaced, in the case of the works mentioned in Article 1(e), by the condition of the agreement of the author. In the same paragraph it has been made clear that only copies of a work published in a country for the said educational purposes may be imported and sold in other countries availing themselves of the reservations; the effect, therefore, is that such copies will be in a language relevant to the educational needs of that country. An example quoted in the discussions was that of a translation made in India which could be imported into Ceylon but not into Japan.

2. On page 5 of document S/270/Rev., substitute the following for paragraphs 23 to 25 inclusive:

23. With regard to this Article, the Delegations of Czechoslovakia, India, Israel and Tunisia made statements evidencing their opposition in principle to clauses of this kind in Conventions.

24. The reference to the practice established by the United Nations made it necessary to solve the problem of the legal consequences of a contrary situation, namely to deal with the case of a country to which the status of developing country ceases to be applicable. The solution proposed by the Drafting Committee is that this country will no longer be able to avail itself of the Protocol at the expiry of a period of six years from the appropriate notification.

25. To provide a possibility for developing countries to benefit immediately from the additional Protocol, an Article 5 has been added to the text, offering this possibility even before the text of the Convention itself has been ratified within the meaning of Article 25(1)(b)(i).

26. Another question that was the subject of consideration by the developing countries in the course of the preparatory proceedings, that of the protection of folklore, was resolved by Article 15, paragraph (3) of the Convention itself.

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FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

REPORT

INTRODUCTION

1. The Plenary Assembly of the Berne Union, which met on June 12, 1967, under the chairmanship of Mr. Gordon Grant (United Kingdom) set up Main Committee I (hereinafter referred to as "the Committee") with the task of considering the proposals for revising the substantive copyright provisions of the Berne Convention (Articles 1 to 20), excepting, however, the proposals for the establishment of an additional Protocol regarding developing countries, consideration of which, according to the Rules of Procedure of the Conference, came within the province of Main Committee II.

2. The Plenary Assembly of the Berne Union agreed without opposition to the proposals put forward by the Delegation of Sweden that a member of the Delegation of the Federal Republic of Germany be elected as Chairman of the Committee, that a member of the Delegation of Tunisia be elected as Vice-Chairman of the Committee, and that Professor Svante Bergström (Sweden) be elected as Rapporteur.

3. The officers of the Committee were therefore as follows:

Professor Eugen Ulmer (Federal Republic of Germany), Chairman; Mr. Mustapha Fersi (Tunisia), Vice-Chairman; Professor Svante Bergström (Sweden), Rapporteur. In accordance with Rule 19, paragraph (1) of the Rules of Procedure of the Conference, Mr. Claude Masouyé (BIRPI) was appointed Secretary of the Committee.

4. The Committee elected a Drafting Committee, comprising, under the chairmanship of Mr. William Wallace (United Kingdom), representatives of the following countries: Australia (Mr. J.L. Curtis), Czechoslovakia (Mr. V. Strnad), France (Mr. Marcel Boutet), India (Mr. R.S.Gae), Mexico (Mr. Rojas y Benavides), the Netherlands (Mr. S. Gerbrandy), Rumania (Mr. T. Preda), Senegal (Mr. O. Goudiam), and Sweden (Mr. Torwald Nesser). The French representative pointed out that in respect of those

questions to which the Committee had adopted solutions not accepted by the French Delegation, his participation in the work of the Drafting Committee implied no approval of the texts prepared by that Committee. The same observation applies to the French participation in the Working Group mentioned under No. 7 below.

5. In the course of its discussions, the Committee deemed it advisable to set up Working Groups to make a detailed examination of certain matters of special importance. Four Working Groups were thus established.

6. The first, under the chairmanship of Mr. De Sanctis (Italy), had the task of studying the content of certain exceptions to the right of reproduction contained in Articles 9 (new paragraph (2)) and 10 (paragraph (2). This Working Group consisted of representatives of the following countries: Austria, Czechoslovakia, France, Italy, Ivory Coast, Japan, Sweden, United Kingdom.

7. The second, under the chairmanship of Professor Ulmer (Federal Republic of Germany), was responsible for examining the regime of cinematographic works. This Working Group consisted of representatives of the following countries: Belgium, Brazil, Bulgaria, Congo (Kinshasa), Czechoslovakia, Denmark, France, Federal Republic of Germany, Italy, Japan, Monaco, Spain, Sweden, Switzerland, United Kingdom.

8. The third, under the chairmanship of Mr. Strnad (Czechoslovakia), was entrusted with consideration of the possible insertion in the Convention of special provisions relating to folklore. This Working Group consisted of representatives of the following countries: Brazil, Congo (Brazzaville), Czechoslovakia, France, Greece, India, Ivory Coast, Monaco, Netherlands, Sweden, Tunisia, United Kingdom.

9. The fourth, under the chairmanship of Mr. Cavin (Switzerland), had the task of finding a formula specifying the conditions mentioned in Article 2bis, paragraph (2). This Working Group consisted of representatives of the following countries: Bulgaria, France, Federal Republic of Germany, Monaco, Sweden, Switzerland.

10. The officers of the Committee attended ex officio the meetings of the Drafting Committee and of the four Working Groups.

11. The Committee decided to consider the proposals for revision in the following order, the numbers of the Articles referred to being those of the text submitted in the Programme (document S/1).

(a) Articles 4, 5 and 6 (eligibility criteria, country of origin), with the exception of the provisions concerning cinematographic works;

(b) Articles 9 (right of reproduction), 10 (quotations), 10bis (current events);

(c) Articles 2, paragraph (2), 4, paragraphs (4) and (6), 6, paragraph (2), 7, paragraph (2), 14, paragraphs (1) to (7); regime of cinematographic works;

(d) Article 2, paragraph (1) (choreographic works); Article 2bis, paragraph (2) (reproduction of discourses by the press); Article 6bis (moral rights); Article 7 (term of protection); Article 7bis (works of joint authorship); Article 8 (right of translation); Article 11 (rights of presentation and performance); Article 11bis (right of broadcasting); Article 11ter (right of recitation); Article 13 ("mechanical" rights); additional protocols regarding (i) stateless persons and refugees, (ii) the works of certain international organizations;

(e) Proposals submitted with regard to other provisions of the Convention.

12. Firstly, it should be mentioned that the Committee took a decision on a question of general import, affecting the Convention as a whole. It had been pointed out that the expression "literary, artistic, and scientific works" appeared in some articles, whereas only the adjectives "literary and artistic" were used in other articles. Following a proposal by the United Kingdom, the Committee decided to delete the word "scientific" wherever it was used in the Convention to qualify works, considering that the use of different expressions in various places was liable to give rise to misunderstandings. It was thought sufficient that Article 2, paragraph (1) should give a general definition of the term "literary and artistic works" as including "every production in the literary, scientific and artistic domain."

13. Two general remarks seem justified here concerning the interpretation of the text of the Convention. The Drafting Committee was unanimous in adopting, in the drafting of new texts as well as in the revision of the wording of certain provisions, the principle lex specialis legi generali derogat: the special texts are applicable, in their restricted domain, exclusive of texts that are universal in scope. For instance, it was considered superfluous to insert in Article 9, dealing with certain general exceptions affecting authors' rights, express references to Articles 10, 10bis, 11bis and 13 establishing special exceptions. Similarly, Article 11 does not refer to Article 11bis. On the other hand, it was thought advisable to insert such references in cases where, exceptionally, the saying lex specialis legi generali derogat is not applicable. Such a reference is to be found, for example, in Article 14, paragraph (3), where reference is made to Article 13, paragraph (1).

14. Secondly, the adoption of English as one of the official languages of the Berne Convention (cf. No. 16 below) makes it necessary to clarify an expression appearing several times in the text: "législation nationale" ("national legislation"). According to the English view, on which the work of the Drafting Committee was based, these words refer not only to statute law but also to common law.

15. The Committee based its discussions on the Programme presented in document S/1 (with the exception of the draft Protocol Regarding Developing Countries) and the proposed amendments submitted in accordance with Rule 33 of the Rules of Procedure of the Conference.

16. Lastly, it should be pointed out that, in accordance with a decision taken by Main Committee IV, the Berne Convention will henceforward have two official languages, English and French. Consequently, Main Committee I has also had to adopt an official text in English. In establishing the latter, the text contained in document S/1 and including a revision of the wording of the Brussels text prepared by a group of experts (document S page 8) was used as a basis.

I. ELIGIBILITY CRITERIA AND COUNTRY OF ORIGIN

(Articles 4, 5 and 6 or Articles 3 to 6)
With the exception of the provisions
concerning cinematographic works

17. Articles 4, 5 and 6 of the Brussels text deal mainly with two fundamental questions.

18. The first relates to eligibility criteria, that is to say criteria for the application of the Convention. The main criterion differs accordi to whether the work is published or not. If it is not published, the criterion is the nationality of the author: he is protected if he is a national of a country of the Union (Article 4, paragraph (1)). If the wor is published, the only criterion is that of first publication: the author is protected if he first publishes his work in a country of the Union, irrespective of whether he is a national of a country of the Union (Article 4(1) or not (Article 6(2)).

19. The second question relates to the basic principles of the protectio of a work under the Convention: principles of national treatment and protection jure conventionis. In some cases the author enjoys both nation treatment and jus conventionis (Article 4(1), Article 6(1)). In other case he benefits only from national treatment (Article 5, Article 6(1)). In what is called the country of origin of the work, he may not be protected at all under the Convention (Article 4(1)).

20. In addition to these two questions the Brussels text includes a definition of two concepts closely related to the above questions, namely publication (Article 4(4)) and country of origin (Article 4(3) and (5)). In addition, it contains a provision excluding formalities as a condition of protection (Article 4(2)) and other provisions permitting countries in certain cases to take retaliatory measures against countries outside the Union (Article 6(2) to (4)).

21. The Programme of the Conference submitted proposals on eligibility criteria and on the definitions of the concepts of publication and country of origin. No amendment was proposed regarding the principles of protection or the provisions contained in Article 4(2) and Article 6(2) to (4) of the Brussels text.

22. As Chairman of the Committee, Professor E. Ulmer proposed a new draft of Articles 4 to 6 (document S/44). A new Article 3 would indicate the main criteria for the application of the Convention, with the definition of the concept of publication. Article 4 would contain certain special criteria for the application of the Convention (cinematographic works and architectural works). Article 5 would state the principles of protection, with the definition of the concept of country of origin, and Article 6 would reproduce the special provisions at present contained in Article 6(2) to (4).

23. The Committee approved the new presentation of Articles 4 to 6 in principle, but preferred to proceed according to the order followed in the Programme of the Conference. The present Report also follows that order. However, when it refers to a certain article or a certain paragraph, the Report will also indicate in brackets the corresponding article or paragraph in the new draft finally adopted by the Committee.

Article 4(1) (Article 3(1)(a))

24. The Programme proposed that the nationality of the author should be the general criterion for protection under the Convention. Protection would be granted to authors who are nationals of one of the countries of the Union, according to Article 4(1), not only for their unpublished works but also for their works first published inside or even outside the Union. The proposal in the Programme was adopted unanimously.

Article 4(2) (Article 3(2))

25. The Programme proposed a new provision in Article 4(2) whereby authors who are not nationals of one of the countries of the Union but are domiciled in one of them shall, for the purpose of this Convention, be assimilated to the nationals of that country.

26. The Programme also proposed that an additional Protocol should be adopted, enabling countries which so desire to assimilate to national authors stateless persons or refugees not domiciled but having their habitual residence in one of the countries of the Union.

27. After discussion the Committee decided to adopt the proposal made by several delegations that the term "domiciled" should be replaced by the wider expression "having their habitual residence". The consequence of this decision would be that the Additional Protocol concerning the Protection of the Works of Stateless Persons and Refugees would become superfluous. The Committee accordingly decided not to adopt this Protocol which was proposed in the Programme.

28. The question was raised as to when habitual residence should become a criterion for protection, as an author might change his habitual residence from time to time. This point must be determined by the Court in the country in which protection is claimed. It is probable, however, that the decisive date will be the date when the work, without having been published, was first made available to the public. If at that date the author of the work has his habitual residence in a country of the Union, he is protected in respect of his work under the Convention. If the work was first made available to the public by an unauthorized person, the author can claim protection under the Convention against that unauthorized person, if he has his habitual residence in a country of the Union at that date.

29. It is obvious that this problem may be raised--and solved in the same way--in respect of the date when the author's nationality is decisive as an eligibility criterion.

Article 4(3) (Article 5(2))

30. This provision corresponds to Article 4(2) of the Brussels text. No amendment was proposed in the Programme and none was submitted during the Conference.

Article 4(4) (Article 5(4) and Article 3(4))

31. In the Programme it was proposed to combine paragraphs (3) and (5) of the Brussels text in a new paragraph (4) containing in its first subparagraph the definition of the country of origin both for published works and for unpublished works and in its second subparagraph a definition of the concept of simultaneous publication. It was merely proposed to make a few minor adjustments to the first subparagraph and to draft the text accordingly.

32. According to the Programme the first criterion for country of origin should be, as in the Brussels text, the country of first publication and in the event of simultaneous publication in several countries of the Union, the country of which the legislation grants the shortest term of protection (a).

33. In the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter, according to the Programme, should be considered as the country of origin (b).

34. In the case of works first published simultaneously in a country outside the Union and in a country of the Union, the Programme provided that the latter should be considered as the country of origin (b).

35. As regards unpublished works or works first published in a country outside the Union, without simultaneous publication in a country of the Union, the general criterion, according to the Programme, should be the nationality of the author ((c)(iii)).

36. However, the Programme provided for two exceptions. The first relates to cinematographic works in respect of which the country of origin was considered to be the country of which the maker is a national or in which he has his domicile or headquarters ((c)(i)). In the absence of such a criterion, the nationality of the author would be decisive as regards their country of origin. In the same way, the country where a work of architecture and some other works of the same nature were erected or affixed to land or to a building would be the criterion for their country of origin ((c)(ii)).

37. In the Committee, Switzerland proposed (document S/63) that the nationality of the author should be the general criterion for country of origin even in respect of published works. This proposal was, however, withdrawn after discussion.

38. India submitted a similar proposal (document S/41) providing that the nationality of the author should be the general criterion for country of origin either from the time when the work is made lawfully available to the public, or even before. The first part of the proposed alternative was based on the presumption that protection should begin from the date on which the work was made lawfully available to the public.

39. France proposed (document S/27) that the special criterion for cinematographic works in paragraph (c)(i) should be deleted.

40. These proposals were not accepted. The Programme was adopted by the Committee with the following minor amendments. An amendment was made to the provision in (c)(i) and will be mentioned later in the part of the Report dealing with cinematographic questions. During discussion of Article 6(3), which corresponds to Article 4, paragraph (4)(c)(ii), the Committee decided to make a few changes in the English version which do not affect the French text.

41. Lastly, a purely drafting amendment to subparagraph (c) was accepted by the Committee. Instead of giving the general principle of nationality as the criterion for country of origin in the last sentence ((c)(iii)), subparagraph (c) would begin with this general rule, followed by the two exceptions regarding cinematographic works ((c)(i)) and architectural works ((c)(ii)).

Article 4(5) (Article 3(3))

42. The definition of "published works" contained in Article 4(4) of the Brussels text was incorporated in the Programme (Article 4(5)) with two small amendments.

(a) According to the Brussels text, the definition of published works was valid only "for the purposes of Articles 4, 5 and 6". These words in inverted commas were excluded from the Programme, which meant that the definition was to relate to the whole Convention.

(b) The Programme introduced into Article 4(5), as an element in th definition of the concept of publication, the statement that the work should have been "lawfully" published.

43. No proposal was submitted to the Committee regarding the first of these two amendments.

44. As regards the second, the United Kingdom proposed (document S/42) that the word "lawfully" should be replaced by the phrase "with the consent of the author".

45. Some proposals were submitted regarding other points of the definiti of published works. France proposed an additional sentence (document S/ giving a special rule for the publication of cinematographic works.

46. India proposed (document S/41) a narrower definition excluding fro "publication" as defined in the Convention the publication of gramophone records, photographs, paintings or engravings of architectural or other three-dimensional works.

47. Proposals submitted by the Netherlands (document S/49) and by South Africa (document S/53) and a joint proposal by South Africa, Germany (Federal Republic), Luxembourg and Monaco (document S/60) were designed to give a wider general definition of published works than that contained in the Brussels text.

48. The Committee adopted the first amendment proposed in the Programme, namely the deletion of the words "for the purposes of Articles 4, 5 and 6" thus making the definition of "published works" (and publication) applicable to the whole Convention.

49. The Committee decided, in accordance with the United Kingdom propos to substitute the words "with the consent of the author" for the word "lawfully" proposed in the Programme.

50. Lastly, the Committee adopted a new general formula broadening the definition of published works. This formula, which was prepared by the Drafting Committee on the basis of the joint proposal referred to above, provides that the expression "published works" means works published wit the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been sufficient to satisfy the reasonable requirements of the public, having

regard to the nature of the work. This new and wider definition implies inter alia new conditions for the publication of cinematographic works including television films.

Article 4(6) (-)

51. The Programme proposed inserting a new paragraph (6) giving a definition of the "maker of the cinematographic work". This proposal was rejected. It should be pointed out, however, that, in a new provision inserted in Article 15(2), the Committee adopted the principle that the person or corporate body whose name appears on a cinematographic work in the manner in current use shall, in the absence of proof to the contrary, be presumed to be the maker of that work.

Article 5 (Article 5(3))

52. The Brussels text stipulates that an author who is a national of one of the countries of the Union and who first publishes his work in another country of the Union shall have national treatment in the latter country, the country of origin. This rule was retained in the Programme with a slight modification in the English version where the word "native" was changed to "national". No amendment was proposed to this provision.

53. The actual substance of this rule was also maintained by the Committee with the above modification. The rule was, however, redrafted and combined with the other rules regarding protection in the country of origin of the work. This is at present the subject of the new Article 5(3).

54. This paragraph contains a rule, implicit but not expressly mentioned in the Brussels text, that protection, in the country of origin, of a work of which the author is a national of that country is governed solely by national legislation. Protection is therefore entirely outside the Convention. Other authors in respect of whose works that country is the country of origin, are entitled under the Convention to benefit from national treatment. This rule is applicable either in the case where the author is a national of another country of the Union (as stipulated in Article 5 of the Brussels text) or in the case where he is not (as stipulated in Article 6(1) of the Brussels text).

Article 6(1) (Article 3(1)(b) and Article 5(3))

55. In the Brussels text this article deals with (a) first publication as an eligibility criterion for works published by nationals of countries outside the Union, and (b) the principles of protection in respect of such works. On this last point, the author enjoys national treatment in the country of publication, that is to say the country of origin, and in the other countries of the Union "the rights granted by this Convention".

56. In the Programme two amendments were proposed in respect of (a) above. In the first place the text stated explicitly that it referred also to cases of simultaneous publication in a country outside the Union and in a country of the Union. In the second place the text stated

clearly that an author who is a national of a country outside the Union should be protected only in respect of those works first published or published simultaneously in a country of the Union.

57. India proposed (document S/41) deleting the whole of Article 6.

58. The amendments proposed by the Programme were adopted by the Committee. The substance of the provision as amended was transferred, as regards publication as a criterion of eligibility, to the new Article 3(1)(b), and as regards the principles of protection, to the new Article 5(3), thus giving a text that makes the content of the provision in question clearer.

Article 6(2) (Article 4(a))

59. The Programme proposed inserting a new criterion for protection in respect of cinematographic works, namely the nationality, domicile or headquarters of the maker. Subject to replacing the concept of domicile by that of habitual residence and deleting the reference to the nationality of the maker, and subject to the principle that account should be taken in the first place of the headquarters of the maker, this proposal was adopted and the corresponding provision is contained in the new Article 4(a).

Article 6(3) (Article 4(b))

60. The Programme also proposed including a new criterion for protection in respect of works of architecture or graphic and three-dimensional works affixed to land or to a building.

61. Australia proposed (document S/52) to amend the text of the Programme by deleting the reference to graphic and three-dimensional works.

62. The Committee adopted the Programme except that, on the proposal of the Drafting Committee, the English version was worded slightly differently to make it correspond to British practice. This provision was included in the new Article 4(b).

63. It was decided that the Report should state that the criterion for the situation of architectural and other artistic works in a country of the Union would apply only in respect of the original work. No protection under the Berne Convention could be claimed in respect solely of a copy of the work erected in a country of the Union if the original remained situated in a country outside the Union.

II. RIGHT OF REPRODUCTION
(Articles 9, 10 and 10bis)

64. In the Brussels text, Articles 9, 10 and 10bis deal with some of the aspects of the author's right of reproduction, but a general right of reproduction is not explicitly conferred on the author under the Convention. Article 9(1) provides for a right of reproduction in respect of works published in newspapers or periodicals. Paragraph (2) provides for an exception to this right: articles on current economic, political or religious topics may be reproduced by the press unless the reproduction thereof is expressly reserved; nevertheless the source must always be clearly indicated. Paragraph (3) provides that protection shall not apply to news of the day nor to miscellaneous information having the character of mere items of news.

65. Article 10(1) states that it shall be permissible to make short quotations from newspaper articles and periodicals, as well as to include them in press summaries. Under paragraph (2) the right to include excerpts from literary or artistic works for educational or scientific purposes or in chrestomathies is to be a matter for national legislation. According to paragraph (3), quotations and excerpts are to be accompanied in principle by an acknowledgement of the source and by the name of the author.

66. Lastly, according to Article 10bis, it is to be a matter for national legislation to determine the conditions under which short extracts from works may be used for the purpose of reporting current events by means of photography or cinematography or by radiodiffusion.

67. The Programme proposed that a general right of reproduction should be inserted in Article 9(1). In paragraph (2) the Programme provided for some general exceptions to this right. Article 9(1) of the existing text was omitted since it was included in the new paragraph (1) proposed. According to the Programme it was no longer necessary to maintain paragraph (2) of the Brussels text, which was accordingly also omitted. Paragraph (3) was transferred unchanged to Article 2 as paragraph (7).

68. The Programme proposed broadening the rule on quotations contained in the existing Article 10(1) so as to make it a general rule applying to all categories of works. Paragraphs (2) and (3) were unchanged. Lastly, some minor amendments were made to Article 10bis.

69. The Committee adopted the order proposed in the Programme, which will be followed in the present Report. Accordingly, Article 9(3) of the Brussels text on items of news will be discussed under Article 2(8) (a new paragraph was added to Article 2, so that paragraph (7) of the Programme becomes paragraph (8) in the text adopted by the Committee). Nevertheless, the Committee has included

in Article 9 a new paragraph (3), which was not proposed in the Programme but which corresponds to Article 9(2) of the Brussels text.

Article 9(1)

70. The Programme proposed that a general right of reproduction should be recognized in Article 9(1): authors of protected works would have the exclusive right of authorizing "the reproduction of these works, in any manner or form."

71. The principle thus stated was contested only by India in a proposal (document S/86) containing an alternative: either to retain the Brussels text, or to permit the countries of the Union to introduce a compulsory general license with remuneration, which would be inserted in a new subparagraph (d) of paragraph (2).

72. Moreover, Austria, Italy and Morocco submitted an amendment (document S/72) with a view to extending the protection provided in paragraph (1) by adding the right of circulation.

73. Several proposals which were submitted may be regarded as purely drafting points.
Austria proposed (document S/38) adding a sentence defining "reproduction" as consisting in the material fixation of the work by all methods that permit of indirect communication to the public. Some examples were also indicated. The Federal Republic of Germany proposed (document S/67) inserting after the words "these works" the following phrase "including the recording of these works by instruments capable of reproducing them mechanically." The United Kingdom recommended (document S/42) that it should be expressly stated in the Convention that the right of reproducing a work also included the right to reproduce "substantial parts" of the work. France proposed (document S/70) inserting after the words " in any manner or form" the words "and for any purpose."

74. The Committee rejected the proposal that a general right of circulation be included in paragraph (1). Some delegations considered that such a right would make the dissemination of a work too difficult and others thought that the preparatory work on this point was not sufficient to enable the Conference to take a decision, for example on the exceptions to such a general rule.

75. As regards the drafting amendments , Austria withdrew its proposal on condition that the two ideas contained in it appeared in the Report: (i) reproduction does not include public presentation or performance; (ii) reproduction includes recordings of sounds or images. There seems no doubt that such clarification is consistent with the general trend of opinion in the Committee.

76. Since it was emphasized that all rights granted in respect of works under the Convention are applicable, without this being explicitly stated, either to the whole work or to parts of it and that to refer to parts of a work in an article might imply contrary conclusions in respect of other articles, the United Kingdom withdrew its proposal.

77. The Committee decided to adopt the text of the new Article 9(1) as proposed in the Programme.

78. Article 13(1) of the Brussels text provides that authors of musical works shall have the exclusive right of authorizing: (i) the recording of such works by instruments capable of reproducing them mechanically; (ii) the public performance by means of such instruments of works thus recorded. Since the Committee decided to delete this paragraph (1) of Article 13, it was considered appropriate to include in Article 11(1) and in Article 11ter(1) a reminder that the right of presentation or performance and the right of recitation include the right at present referred to in Article 13(1). However, as will be set out below, when dealing with Articles 11 and 11ter, a slightly modified formula has been adopted to define the latter right. In order to coordinate the provisions of the Convention, the Drafting Committee proposed to insert a similar reminder in Article 9(1), namely that the author's right of reproduction includes the right of reproduction as at present provided in Article 13(1).

Article 9(2)

79. In the Programme, this paragraph contained the general exceptions to the right of reproduction. It provided that it would be possible for national legislation to permit the reproduction of the works referred to in paragraph (1) in three cases: (a) for private use; (b) for judicial or administrative purposes; (c) in certain particular cases, provided (i) that reproduction is not contrary to the legitimate interests of the author, and (ii) that it does not conflict with a normal exploitation of the work.

80. Various tendencies appeared in the proposals submitted. One of these was to restrict the exceptions indicated in the Programme. For instance, France proposed (document S/70) that the expression "private use" should be replaced by "individual or family use." The Netherlands made the same proposal (document S/81) in respect of item (a) and proposed, in respect of item (b), the expression "for strictly judicial or administrative purposes" and in respect of (c), another general formula. The Federal Republic of Germany proposed (document S/67) inserting in item (c) a third condition for exceptions to the general rule in paragraph (1), namely that reproduction should not conflict with the author's right to obtain equitable remuneration.

81. Another tendency was to extend the exceptions indicated in the Programme. For instance, India proposed (document S/86) that, if the Brussels text was not maintained, it would be expedient to add after item (c) a clause to appear as item (d), permitting a compulsory general license for reproduction, with the right for the author to obtain remuneration. Rumania submitted a similar amendment (document S/75) under which, however, the compulsory license should apply only in the country in which it was prescribed.

82. There was also a tendency to group all the exceptions in a single formula and thus to eliminate items (a) and (b) of the Programme text. Proposals to this effect were submitted by the United Kingdom (document S/42) or suggested in the observations submitted by Greece (document S/56). According to the Greek observations, it should be possible to omit items (a) and (b) which are covered by item (c) without changing the text of the latter. According to the United Kingdom proposal, item (c) should be slightly amended. Instead of the expression used in the Programme, namely "in certain particular cases where the reproduction is not contrary to the legitimate interests of the author," the following phrase should be used: "in certain special cases where the reproduction does not unreasonably prejudice the legitimate interests of the author."

83. A purely drafting point was raised by Monaco (document S/66) and by the Netherlands (in the above-mentioned document S/81). Paragraph (2) should include an express reference to the special exceptions contained in other provisions of the Convention, such as Articles 10, 10bis, 11bis(3) and 13(1) (Article 13(2) of the existing text).

84. The Committee decided in the first place that the exceptions should be included in a general clause corresponding to item (c) and then referred the problem to the Working Group on Articles 9(2) and 10(2), to which reference was made in the introduction to this Report.

85. The Working Group decided to adopt the amendment proposed by the United Kingdom with some slight alterations in the English version (document S/109). It proved very difficult to find an adequate French translation of the expression "does not unreasonably prejudice". In the Committee it was finally decided to use the expression "ne cause pas un préjudice injustifié".

86. The Committee also adopted a proposal by the Drafting Committee that the second condition should be placed before the first, as this would afford a more logical order for the interpretation of the rule. If it is considered that reproduction conflicts with the normal exploitation of the work, reproduction is not permitted

at all. If it is considered that reproduction does not conflict with the normal exploitation of the work, it is then necessary to consider whether it does not unreasonably prejudice the legitimate interests of the author. Only in these circumstances would it be possible to introduce a compulsory licence in certain special cases. A practical example might be photocopying for various purposes. If it implies producing a large number of copies, it should never be permitted, as it conflicts with a normal exploitation of the work. If a smaller number of copies is made, it may be permitted for individual or scientific use. If it is intended for use in industrial undertakings, it may not unreasonably prejudice the legitimate interests of the author provided that, according to national legislation, an equitable remuneration is to be paid.

87. The Committee finally adopted the following wording for paragraph (2) of Article 9: "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."

Article 9(3)

88. In a joint proposal submitted by Czechoslovakia, Hungary and Poland (document S/51), and in a proposal by Japan (document S/80), the reintroduction was suggested, in a new paragraph (3) of Article 9, of the provision at present contained in Article 9(2) dealing with borrowings from newspaper articles. According to the Programme, that provision was to have been deleted.

89. The above proposals also provided that the right to borrow articles should apply not only to reproduction by the press but also to broadcasting. In addition, the first of the two proposals stated that, in the cases referred to in the provision in question, articles could be used not only in the original but also in translation.

90. The Committee adopted the three concepts contained in the two amendments referred to above - namely, the reintroduction of the existing provision of Article 9(2) concerning borrowings from newspaper articles, and its extension to broadcasting, and it agreed that such provisions should be inserted in a new Article 9(3).

91. It was decided, however, on the proposal of the Drafting Committee, to change the opening words in order to bring them into line with the corresponding words in paragraph (2) of the new version, so as to avoid the impression that it is compulsory for countries to insert in their legislation such a restriction on the author's right of reproduction.

which clearly impose upon the meaning of the word "articles" a restriction judged necessary, after the deletion of Article 9(1), so as to retain the meaning of paragraph (3); (ii) to give the press the possibility of borrowing material of the same nature from broadcasting programs, thus restoring the balance between the rights of the two media concerned.

93. The question of the right of translation of articles utilized in this way will be considered in connection with Article 8 dealing with the general right of translation.

Article 10(1)

94. The Programme proposed an extension of the existing rule in Article 10(1) which deals with the right of quotation and refers only to newspaper articles and periodicals, whereby its application would be extended to all categories of works. The Programme also proposed deletion of the condition according to which only "short" quotations are permitted. On the other hand, the Programme introduced certain conditions restricting the freedom of quotation. The works quoted were (i) to have already been "lawfully made available to the public", (ii) to be "compatible with fair practise", and (iii) to be made only "to the extent justified by the purpose".

95. France proposed (document S/45), as did Greece in its comments (document S/56), to reintroduce the condition that only "short" quotations should be permitted. Switzerland made the same proposal (document S/5[illegible] and suggested in addition that the phrase "justified by the purpose" relating to condition (iii) should be replaced by the phrase "that they serve as explanation, reference or illustration in the context in which they occur". Czechoslovakia, Hungary and Poland submitted a proposal (document S/51) corresponding to that made in connection with Article [illegible] (new), providing that the work could also be quoted in translation.

96. After discussion, the Committee decided to leave the French text as proposed in the Programme, but to make a slight change in the English version. It was felt that the reasons for replacing the word "lawfully" in connection with condition (i) by the words "with the consent of the author" were not valid here, and the word "lawfully" was therefore retained. It was also pointed out that the last phrase, referring to press summaries, gave rise to some ambiguity. It was felt, however, that it would be difficult to get rid of that ambiguity, upon which the courts would be able to decide, and that it was not absolutely essential to do so.

97. The question of the freedom to translate quotations will be considered in connection with Article 8.

Article 10(2)

98. The Programme proposed no substantial change in Article 10(2) of the Brussels text. According to that provision, it is a matter for national legislation or for special Agreements concluded between the countries of the Union to permit the inclusion of borrowings from protected works in "publications intended for teaching or having a scientific character" or in "chrestomathies" to the extent justified by the purpose. The only change proposed in the Programme concerned the wording of the English text, the French text remaining unchanged: the word "excerpts" was replaced by the word "borrowings", which was felt to correspond better to the French word "emprunts."

99. The Netherlands proposed (document S/108) that this paragraph be deleted. In a joint proposal submitted by Bulgaria, Czechoslovakia, Poland and Rumania (document S/83), it was suggested that the scope of this paragraph be broadened to include radio and television broadcasts and phonograms.

100. After some discussion, in the course of which suggestions were made that this provision should be restricted slightly, the question was referred to the Working Group set up to study Article 9(2) and Article 10(2).

101. The Working Group submitted a proposal (document S/185) which considerably restricted the utilization referred to in paragraph (2). The word "borrowings" was no longer mentioned. The provision referred to the "utilization" of works "to the extent justified by the purpose", but only "by way of illustration for teaching", provided that such utilization was "compatible with fair practice". The Working Group also suggested -- as an alternative in square brackets -- that the authorization might extend to "broadcasts" and to "recordings".

102. The Committee adopted the Working Group's proposal and the extension to broadcasts and recordings. It subsequently decided to add the words "sound or visual" before "recordings", thus eliminating any doubt as to the possibility that this provision might not apply to visual recordings as well as sound recordings.

103. The wish was expressed that it should be made clear in the Report that the word "teaching" was to include teaching at all levels - in educational institutions and universities, municipal and state schools and private schools. Education outside these institutions, for instance in places open to the public but not included in the above categories, should be excluded.

Article 10(3)

104. The Programme made no change, apart from slight amendments to the English text, in Article 10(3) of the Brussels text, dealing with the obligation to mention the source and the name of the author in the case of utilization under paragraphs (1) and (2). The Committee decided to adopt the new text submitted by its Drafting Committee, which made no changes of substance but merely some drafting amendments in the English and French versions.

Article 10bis

105. In regard to the provision of Article 10bis concerning the reporting of current events, the Programme suggested four minor changes in the Brussels text: (i) the restriction concerning "short extracts" from works was to be deleted; (ii) this provision was to be extended to cover "communication to the public by wire" in addition to photography, cinematography and broadcasting; (iii) utilization was to be permitted only "to the extent justified by the informatory purpose"; (iv) it was clearly stated that the facility referred to in this paragraph applied only to works "which are seen or heard in the course of the event."

106. Monaco proposed some drafting amendments (document S/76), namely, that the word "reproduced" should disappear and the words "communicate to the public" should be replaced by the words "made available to the public".

107. These two suggestions were approved by the Committee, which adopted the text of the Programme, thus amended.

III. OTHER PROVISIONS

Title and Preamble

108. The Programme made no change in the Title and Preamble of the Convention, merely adding the Stockholm revision to the list of revisions in the Title and the Brussels revision in the Preamble.

109. Brazil proposed (document S/210) that a formula should be included in the Preamble laying down the basis for protection. This formula reads as follows: "The subject of the protection granted by the present Convention, in regard to authorship and the moral rights of the author, is any production of the mind possessing features of originality, apart from inventions and discoveries, which are protected by legislation on patents and marks." A reference to that provision of the Preamble would then have had to be included in Articles 1, 4 and 6bis.

110. This proposal was rejected and the text of the Programme was adopted.

Article 1

111. Article 1 lays down that the countries to which the Convention applies constitute a Union for the protection of authors' copyright in their literary and artistic works. The Programme suggested only a slight modification of the English version, the words "the rights of authors over" being replaced by "authors' copyright in", as it was considered that the term "copyright" was much more widely known in English-speaking countries.

112. The Drafting Committee considered, however, that there might be some doubt as to whether the word "copyright" included moral rights. It was therefore decided to revert to the original wording with a minor amendment to the English version.

Article 2

113. In the Brussels text, the works protected are enumerated in paragraph (1) of Article 2. Paragraph (2) states that adaptations of a work shall be protected as original works, without prejudice to the rights of the author of the original work. It also contains a special provision concerning translations of official texts. Paragraph (3) confers a specific copyright on the authors of collections. Paragraph (4) provides that the works mentioned in this Article shall enjoy protection in all countries of the Union and that this protection shall operate for the benefit of the author and his legal representatives and assignees. Finally, paragraph (5) contains certain special provisions for the protection of works of applied arts and industrial designs and models.

114. In the Programme, the order of the paragraphs was changed slightly. A new paragraph (2) was inserted to deal with the assimilation of certain works to cinematographic works and photographic works. For this reason, the numbering of the subsequent paragraphs was changed, so that paragraph (2) became paragraph (3) and so on down to paragraph (6). The new provision concerning items of press information, which appears in paragraph (3) of Article 9 of the Brussels text, was inserted in a new paragraph (7).

115. In the draft adopted by the Committee, further changes were made to the order of the paragraphs. The content of paragraph (2) was inserted in paragraph (1). A new provision dealing with fixing as a condition of protection was inserted as paragraph (2). Paragraph (3) was divided into two paragraphs, (3) and (4). Paragraph (4) of the Programme became paragraph (5) and so on down to paragraph (7), which became paragraph (8). The present report will follow the order of the Programme (except in regard to paragraph (2)). The numbers appearing in the text adopted by the Committee will be shown in brackets.

paragraph 1

116. The Programme suggested only two essential changes in the list of works in paragraph (1): (i) a change in the text concerning choreographic works and entertainments in dumb show; (ii) an amendment to the provision concerning cinematographic works and its inclusion in a new paragraph (2). Consequently, the provision on cinematographic works, which was drafted in a similar manner, was incorporated in this new paragraph (2), without any change of substance. These two questions will be dealt with under different headings.

117. Some countries suggested that new categories of works should be included in the list of protected works. These proposals will be examined under a separate heading.

Choreographic works and entertainments in dumb show

118. The Brussels text expressly listed among the protected works choreographic works and entertainments in dumb show "the acting form of which is fixed in writing or otherwise." The Programme suggested that this condition of fixation should be deleted. Choreographic works which will hereinafter be deemed to include entertainment in dumb show, unless otherwise indicated, are the only works included in the Convention for which a condition of this kind is laid down.

119. France proposed (document S/136) that the Brussels text should be maintained.

120. After a preliminary discussion in the Committee, the United Kingdom submitted a compromise proposal (document S/191). It contained two suggestions: (i) that fixation should not be required for choreographic works, but only for entertainments in dumb show, and (ii) that a new sentence should be added at the end of paragraph (1), stating that national legislations should be entitled to make fixation a general condition of protection. As this second suggestion was adopted by the Committee and inserted in a paragraph (2) (see below), it was considered that the first suggestion was superfluous.

121. Finally, in view of the new provision in paragraph (2), the Committee adopted the proposal put forward in the Programme to delete the words "the acting form of which is fixed in writing or otherwise."

Cinematographic and photographic works

122. The Programme suggested a new provision for cinematographic works in the form of a new paragraph (2). The Committee decided to alter the proposed text slightly and to restore it to paragraph (2) (see below).

123. The Brussels text mentioned among the protected works "photographic works and works produced by a process analogous to photography." In the Programme, this phrase was transferred to the new paragraph (2), with a slight drafting amendment.

124. The United Kingdom proposed (document S/100) that this phrase should also include a condition concerning fixation.

125. The Committee considering that a photographic work must by definition be fixed, adopted a wording similar to that proposed in the Programme, and moved it back--as the phrase dealing with cinematographic works--to paragraph (1).

New categories of works

126. India proposed (document S/73) that works of folklore should be included in the list of protected works. Moreover, some countries proposed that television works should be included in this list (see below).

127. The Committee did not consider it necessary to add any new categories of works to those already mentioned in the list, since the suggested categories appeared to be protected in principle under the terms of the Convention. Nevertheless, as will be indicated later, the Committee deemed it advisable to undertake a thorough study of the regime for works of folklore.

Article 2, paragraph (2) (new)

128. India proposed (document S/73) to insert as a subparagraph after paragraph (1) a phrase permitting domestic legislations to decide that certain specified categories of works shall be fixed in some material form.

129. After a preliminary discussion on choreographic works and entertainments in dumb show, the United Kingdom submitted a similar proposal (document S/191 mentioned above).

130. The Committee decided to adopt a new principle. The terms adopted by the Drafting Committee to express this come very close to the text proposed by the United Kingdom. They read as follows: "It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form." This wording allows countries to prescribe fixation as a general condition of protection or to demand fixation only for one or more categories of works, such as choreographic works and entertainments in dumb show, for instance.

Article 2, paragraph (3) (paragraphs (3) and (4))

131. The Brussels text (paragraph (2)) and the Programme (Paragraph (3))--which made no change to the existing text--contained an opening sentence which provides that translations and all other types of adaptation of a work are protected as original works, without prejudice to the rights of the author of the original work. No change was proposed to this sentence, but it was decided that this sentence by itself alone should constitute paragraph (3).

132. The second sentence of the Brussels text and of the Programme provides that it shall be a matter for national legislation to determine the protection to be granted to translations of official texts of a legislative, administrative and legal nature.

133. The Federal Republic of Germany proposed that the option given to national legislation should apply not only to translations of official texts but also to these texts in their original form. It also proposed a restriction, namely that only official translations should be taken into consideration for this purpose. Finally, it suggested that the new wording should be incorporated in a new paragraph.

134. Italy submitted a similar amendment (document S/161) which did not, however, contain the limitation in regard to official translations.

135. The Committee decided to adopt a wording in conformity with the proposal of the Federal Republic of Germany.

136. In accordance with the desire expressed by the United Kingdom, it should be clearly stipulated in this report that the reference made in the Convention to texts of an administrative nature does not permit countries to refuse protection to all governmental publications.

Article 2, paragraph (4) (paragraph (5))

137. Paragraph (3) of the Brussels text confers a specific copyright on the authors of collections. The Programme placed this provision in paragraph (4), but without change. As no proposal was submitted to the Committee, that paragraph was left as it was.

Article 2, paragraph (25) (paragraph (6))

138. It is laid down in paragraph (5) of the Brussels text and, without change, in paragraph (6) of the Programme that the works mentioned in Article 2 shall enjoy protection in all countries of the Union and that this protection shall operate for the benefit of the author and his legal representative and assignees. As no proposal was submitted to the Committee this paragraph was left unaltered.

Article 2, paragraph (6) (paragraph (7))

139. According to the first sentence of paragraph (5) of the Brussels text domestic legislation is free to determine the protection of works of applied art and industrial designs and models. The second sentence implies an exception to the principle of national treatment: if the country of origin protects works of applied art solely as designs and models, those works shall be entitled in other countries only to such protection as is there accorded to designs and models.

140. Only one alteration was suggested by the Programme. Countries should not be completely free to determine protection: they should observe the minimum term of protection, 25 years from the making of the work, which had been inserted into Article 7, paragraph (4) for works of applied arts protected as artistic works.

141. Denmark proposed (document S/99) that paragraph (5) of the Brussels text should be entirely deleted and that works of applied arts should thus be treated in all respects in the same way as other artistic works.

142. The Netherlands proposed (document S/140) that the second sentence of the paragraph in question should be deleted and that works of applied arts should thus be submitted without restriction to national treatment.

143. Italy proposed (document S/161) that a provision in the following sense should be added at the end of the second sentence of the paragraph under consideration: the principle enunciated in this second sentence shall apply only if the legislation of countries other than the country of origin where the protection is claimed accord special protection to designs and models. If that were not the case works of applied arts should be protected within the framework of the copyright in force in the country concerned.

144. The Committee adopted the change proposed in the Programme: in determining the protection of works of applied arts, national legislation should have regard to the provisions of Article 7, paragraph (4). The Committee also adopted the principle suggested by Italy, namely that a country which did not have special protection for designs and models should always protect works of applied arts in accordance with the law of copyright.

Article 2, paragraph (7) (paragraph (8))

145. The Brussels text stipulates in Article 9, paragraph (3) that the protection of the Convention shall not apply to news of the day nor to miscellaneous information having the character of mere items of news. By introducing a general right of reproduction in Article 9 and by deleting the first two paragraphs of Article 9 of the Brussels text, the Programme would transfer that proposal, which is more applicable to the works protected, from Article 9 to Article 2, paragraph (7) without effecting a change of substance, but with a slight alteration in the English version.

146. According to the commentary given in the Programme, the meaning of this paragraph was as follows: the Convention does not protect mere items of information on news of the day or current events, because such material does not possess the attributes needed to constitute a work. That implies a fortiori that news items or the events themselves are not protected. The articles of journalists or other "journalistic" works reporting news items are, on the other hand, protected to the extent that they are literary or artistic works. It did not seem essential to clarify the text of the Convention on this point.

147. The United Kingdom proposed (document S/171) that this paragraph should read as follows: "The protection of this Convention shall not apply to the facts constituting news of the day or having the character of mere news items."

148. The Committee decided to adopt the text of the Programme with a slight alteration of the English version: the word "press" was inserted before the word "information."

Article 2bis, paragraph (1)

149. The Brussels text stipulates in this paragraph that domestic legislation may exclude wholly or partly from protection political speeches and speeches delivered in the course of legal proceedings. The Programme suggested some purely formal alterations of the English version.

150. No proposal was submitted to the Committee on this paragraph. The Drafting Committee modified the proposed English version so as to bring it back to the Brussels version.

151. It was noted that this paragraph did not raise any special difficulty with regard to translation (see below). Given that domestic legislation can refuse all protection to the works in question, it can obviously also exclude the author's exclusive right of translation.

Article 2bis, paragraph (2)

152. In accordance with this paragraph as it appears in the Brussels text, domestic legislation can determine the conditions under which lectures, addresses, sermons and other works of the same nature may be reproduced by the press. The Programme did not propose any modification.

153. India proposed (document S/73) that the works could be reproduced in original or in translation by the press or cinematography or broadcasting.

154. It was suggested in a joint proposal by Bulgaria, Poland and Czechoslovakia (document S/79) that the right of utilizing the works should be extended to broadcasting.

155. The Federal Republic of Germany proposed (document S/92) that this right should be extended to broadcasting by radio and to communication by wire to the public, but that in those two cases, utilization of the works should be permitted only when they refer to news.

156. Having considered the result of the discussions of the Working Group referred to in the introduction to this report, the Committee decided to amend this paragraph in four respects: (1) sermons were excluded from the application of the provision; (2) lectures, addresses etc. may be used only if they had been "delivered in public"; (3) not only can the works be reproduced by the press, but they can also be broadcast, communicated to the public by wire and made the subject of public communication as set out in Article 11bis, paragraph (1); (4) this use must be be justified by the informatory purpose, that is to say that the character of news must apply not to the subject dealt with in the lecture, address, etc. but to the actual utilization with the object of informing the public.

Article 2bis, paragraph (3)

157 Paragraph (3) of the Brussels text provides that the author alone shall have the right of making a collection of his works mentioned in paragraphs (1) and (2). No change was proposed in the Programme and no proposal was submitted to the Committee.

158. It was decided to maintain this text with a few alterations in the French and English versions to make the sense clearer.

Article 6bis (moral rights)

159. According to the Brussels text it is compulsory for the countries of the Union to protect the author's moral rights during his lifetime. That principle is stated in paragraph (1) of Article 6bis. Paragraph (2) lays it down that moral rights shall be maintained after the author's death at least until the expiry of the economic rights "in so far as the legislation of the countries of the Union permits." Paragraph (3) contains a provision concerning the means of redress for safeguarding moral rights.

160. It was proposed in the Programme that the countries of the Union should be obliged to maintain the moral rights until the expiry of the economic rights.

Article 6bis, paragraph (1)

161. The provision of the Brussels text on the protection of moral rights during the author's life was transformed in the Programme to a general provision on moral rights that does not stipulate any express limitation on the term of those rights. That modification was effected by deleting the words "during his lifetime."

162. No proposal was submitted to the Conference on paragraph (1). It should be noted, however, that proposed amendments submitted during the discussion on paragraph (2) (see below) also had some bearing on paragraph (1).

163. The Committee adopted paragraph (1) as it appeared in the Programme.

Article 6bis, paragraph (2)

164. The main change as regards paragraph (2) of the Brussels text which was proposed in the Programme was to delete the first words of the first sentence: "in so far as the legislation of the countries of the Union permits." As a result of that amendment to the text the moral rights should be maintained after the death of the author "at least until the expiry of the economic rights." The Programme also provided for the amendment and simplification of the provisions contained in the last part of the paragraph regarding the persons and institutions competent to exercise the moral rights after the death of the author. Among other things, the last sentence of the paragraph was deleted.

165. Some countries proposed to eliminate the limitations on the term of the moral rights. Proposals to that effect were submitted by Bulgaria (document S/197) and jointly by Greece and Portugal (document S/151).

166. Furthermore, Greece proposed (document S/183) that "literary and artistic works over which economic rights do not exist shall be protected against all use in a manner prejudicial to the cultural heritage of mankind." That proposal was to appear in a new paragraph of Article 6bis. An Austrian proposal (document S/147) providing for the insertion in Article 6bis of a new paragraph concerning the deposit of a facsimile copy of the earliest and most authentic available text or score of literary, musical, or dramatico-musical works will be analyzed later.

167. India proposed (S/73) that the extension of the protection provided in the Programme should be so restricted that after the death of the author protection should not comprise the right to claim authorship of the work.

168. In order to facilitate the adoption of provisions for extending the protection of the moral rights post mortem auctoris for the countries of the Union whose legal system does not, in principle, protect moral rights within the framework of copyright law and which for that reason have considerable difficulties in providing complete protection after the death of the author, a joint proposal (document S/232) was presented by Australia, Denmark, Finland, Ireland, Norway, Sweden, and the United Kingdom. That proposal provided for the insertion of a new sentence at the end of paragraph (2); according to that new text, the legislation of a country of the Union may provide that some of the rights granted to the author by paragraph (1) shall not be maintained after his death.

169. After further discussions, a new proposal (document S/247) was submitted jointly by Australia, Austria, Denmark, Finland, Germany (Federal Republic), Norway, Sweden, and the United Kingdom. That proposal, based in principle on the same idea as document S/232, restricted the scope of the exception made in favor of the countries of the Union which did not entirely protect the moral rights of the author after his death. That exception should be allowed only in the case of countries whose legislation in force at the time of their ratification of or accession to the Stockholm Act does not contain provisions ensuring the protection post mortem auctoris of all the rights recognized under paragraph (1).

170. The Committee adopted for the first sentence of paragraph (2) the text proposed in the Programme; the provision proposed in document S/247 was adopted as the second sentence of the paragraph. It was understood that the rights maintained in accordance with the second sentence of paragraph (2) should not necessarily be protected by rules within the domain of copyright.

Article 6bis, paragraph (3)

171. In the Brussels text, paragraph (3) of Article 6bis provides that the means of redress for safeguarding the moral rights shall be governed by the legislation of the country where protection is claimed.

172. No amendment was proposed either in the Programme or at the Conference. Paragraph (3) is, therefore, maintained as set out in the Brussels text.

Article 7 (Term of protection)

173. Article 7 deals with the term of protection of the authors' rights. According to paragraph (1) of the Brussels text the general term of protection is established as being the life of the author and fifty years after his death. Paragraph (2) deals with regulations governing cases where a country of the Union grants a term of protection exceeding that prescribed in paragraph (1). Paragraph (3) contains exceptions to the general rule prescribed in paragraph (1) for certain categories of works: cinematographic works, photographic works, and works of applied arts. The term of protection granted for anonymous or pseudonymous works is specified in paragraph (4); paragraph (5) deals with the term of protection of posthumous works in general. Finally, paragraph (6) defines the method of determining the terms of protection prescribed in Article 7.

174. The Programme provides for amendments in all paragraphs of the Brussels text, excepting paragraph (1). Paragraph (2) of the Programme introduces a special term of protection in the case of cinematographic works. Paragraph (3) corresponds to paragraph (4) of the Brussels text; paragraph (4) in part corresponds to paragraph (3) of the earlier text. Similarly, paragraph (5) deals with the same questions as paragraph (6) of the Brussels text. Finally, paragraphs (6) and (7) contain in principle provisions governing the same questions as paragraph (2) of the Brussels text.

175. In the present report the paragraphs appear in the same order as that adopted in the Programme. Where the text adopted by the Committee uses other numbering for the paragraphs, the numbers concerned are indicated in brackets.

Article 7, paragraph (1)

176. The general term of protection, the life of the author and fifty years after his death, as prescribed in this paragraph in the Brussels text, has not been changed in the Programme.

177. No amendment directly relating to this paragraph was submitted to the Committee. A proposal by the Federal Republic of Germany (document S/205) to the effect that negotiations should be continued between the countries concerned for the conclusion of a Special Agreement on the extension of the term of protection will be dealt with in connection with paragraph (6)(see below).

Article 7, paragraph (2)

178. Here the Programme prescribes a new provision concerning the term of special protection for cinematographic works. The proposal referred to above concerning cinematographic works was adopted by the Committee with a slight change in the wording only.

Article 7, paragraph (3)

179. Paragraph (4) of the Brussels text deals with the régime for anonymous and pseudonymous works in three sentences: (i) the term of protection is fixed at 50 years from the date of the publication of the work; (ii) the term of protection provided in paragraph (1) applies when the pseudonym adopted by the author leaves no doubt as to his identity; (iii) the general term of protection provided in paragraph (1) also applies if the author of an anonymous or pseudonymous work discloses his identity during the period ending 50 years after the date of publication. Paragraph (5) determines that in principle posthumous works are subject to the various provisions of Article 7.

180. The Programme proposed that the first sentence should be amended by fixing the end of the term of protection at 50 years "after the work has been lawfully made available to the public." The second and third sentences were left unchanged. A fourth sentence was, however, added making a new exception to the general term of protection of anonymous and pseudonymous works provided in the first sentence. The countries of the Union are not required to protect anonymous or pseudonymous works of which it is reasonable to suppose that their author has been dead for 50 years. Lastly, the Programme proposed to omit paragraph (5) on posthumous works, which was regarded as superfluous.

181. The United Kingdom proposed (document S/42) that the word "lawfully" in the first sentence should be replaced by the phrase "with the consent of the author." India proposed (document S/73) that works of folklore should form a separate category from anonymous works and should be dealt with in a separate subparagraph of paragraph (3). The protection of works of folklore would last for a period of 50 years at least from the date of publication of the work, but for this purpose the issue of any record reproducing a work of folklore would not be deemed to be publication. According to a joint proposal by Greece and Portugal (document S/151), paragraph 5 of the Brussels text relating to posthumous works should be maintained.

182. The Committee decided to adopt the text proposed in the Programme, but replaced the word "lawfully" in the first sentence by "with the consent of the author"; this means that the first sentence of the Brussels text was amended as indicated in the Programme (with the above minor alteration), that a fourth sentence was added and that paragraph (5) of the Brussels text was deleted. (As regards the decision on works of folklore, see below.)

183. When considering this paragraph, the Drafting Committee thought that there might be cases where the term of protection should begin from the moment when the work was lawfully made available to the public, but not necessarily with the consent of its author. The Committee had in mind in particular works of folklore which have been made available to the public by the authority designated under the provision proposed in Article 15(4). The action of this authority is obviously lawful, but has not been taken with the consent of the author in the strict sense. The Drafting Committee therefore proposed to revert to the word "lawfully" used in the first sentence of the Programme.

Article 7(4)

184. Paragraph (3) of the Brussels text provides that the term of protection of cinematographic and photographic works and of works of applied arts shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work.

185. The Programme proposed that a minimum term of protection should be introduced in principle for these three categories of works. The provision regarding cinematographic works was transferred to paragraph (2). The minimum term of protection of photographic works was fixed at 25 years from the making of the work. The same term was provided for works of applied arts, but only for those protected as artistic works.

186. India proposed (document S/73) that paragraph (4) should state specifically that national legislation also provided for a term of protection for industrial designs and models. Hungary proposed (document S/91) that cinematographic works should be restored to the paragraph in question and thus made subject to the term of protection proposed therein. Moreover, Denmark proposed (document S/99) that works of applied arts, in so far as they are protected as artistic works, should be excluded from this paragraph and thus made subject to the general term of protection in paragraph (1). Portugal proposed (document S/152) that a period of ten years should be substituted for the period of 25 years proposed. The United Kingdom proposed (document S/192) that the term of protection should last, in respect of photographs, for at least 50 years from the making of the photograph and, in respect of works of applied arts, for at least 15 years from the making of the work.

187. The Committee decided to adopt the text proposed in the Programme.

Article 7(5)

188. Paragraph (6) of the Brussels text providing for the method of calculating the term of protection was included in the Programme as paragraph (5) with some drafting amendments to bring it into line with the other paragraphs of Article 7.

189. As no proposal had been submitted to the Committee, it adopted the text proposed in the Programme.

Article 7(6) (paragraphs (6) and (7))

190. The Programme transferred to paragraph (6) a provision which appears in paragraph (2) of the Brussels text, namely that the countries of the Union may grant a term of protection in excess of those provided in the various paragraphs of the Article in question.

191. The Federal Republic of Germany invited the Conference (document S/205) to express the wish that negotiations should be continued between the countries concerned for the conclusion of a Special Agreement on the extension of the term of protection in such countries. This point will be discussed below.

192. Bulgaria and Poland proposed jointly (document S/50) that a new sentence should be added to paragraph (6), whereby the countries of the Union bound by the Rome Act at the time of accession to or ratification of the Stockholm Act would be entitled to grant a term of protection shorter than those provided in Article 7.

193. The Committee adopted paragraph (6) as proposed in the Programme.

194. After discussion the Committee decided to adopt, with some drafting amendments, a proposal prepared by the Secretariat (document S/2 on the basis of document S/50 and to insert the proposed new provision in the form of a new paragraph (7). The condition imposed on the grant of a shorter term of protection would not merely be that the country should, at the time of ratification or accession, be bound by the Rome Act, but also that the national legislation in force at the time of signature of the Stockholm Act should contain provisions affording shorter terms of protection than those provided in Article 7. It is obvious that the rule of comparison of terms of protection (Article 7(7) of the Programme and now Article 7(8) of the new text) is applicable in the latter case.

Article 7(7) (paragraph (8))

195. Paragraph (2) of the Brussels text also contains a provision on the principle of comparison of terms. The term is governed by the law of the country where protection is claimed, but cannot exceed the term fixed in the country of origin of the work. The Programme transferred this provision to paragraph (7). At the same time it was stipulated that the comparison of terms does not apply if the legislation of the country where protection is claimed should so decide.

196. Switzerland proposed (document S/69) to reverse the formula used in the last part of the paragraph, so that national treatment would become the principal rule and the comparison of terms an exception.

197. The Committee adopted the text as proposed in the Programme.

Article 7bis

198. Article 7bis of the Brussels text relates to the term of protection in the case of works of joint authorship. The term is calculated from the date of death of the last surviving author. The Programme worded this Article differently in order to specify that the term of protection provided in Article 7 also applies to works of joint authorship, provided that the terms measured from the death of the author are calculated from the death of the last surviving author.

199. India proposed (document S/73) inserting after the words "last surviving author" the words "who was a national of a country of the Union." It was considered that this proposal had lost its point since India's proposal (document S/41) to make the nationality of the author the general eligibility criterion and the criterion of country of origin had not been accepted by the Committee. It should be added, however, that the term of protection of a work of joint authorship published in a country of the Union is calculated from the death of the last surviving author whether he is a national of a country of the Union or not.

200. The Committee adopted the text proposed in the Programme without amendment.

201. The United Kingdom proposed (document S/42) inserting a new paragraph providing that the term of protection of the collective works mentioned in Article 2(4) should be 50 years from the death of the author of such works. Since it was pointed out that this rule seemed to be intended to apply without a special provision, this proposal was withdrawn.

Article 8 (right of translation)

202. Under Article 8 of the Brussels text authors enjoy the exclusive right of making or of authorizing the translation of their works throughout the term of protection of their rights in the original works. No explicit provision in this Article nor in other articles provides for any exception to this exclusive right.

203. The Programme did not propose any change in the text of this Article. It seems, however, to have started from the idea that it was fairly obvious that exceptions to the other exclusive rights, such as the right of reproduction, implied corresponding exceptions in respect of the right of translation and that the Convention had generally been applied in this way. It was expressly stated (document S/1, page 74) that the right to reproduce press articles also includes the right to reproduce them in the form of translations.

204. No amendment to the text of Article 8 was submitted to the Committee, but proposals affecting the right of translation were made in connection with other articles. For instance, it was proposed to insert a sentence adding to the limitation of the right of reproduction a corresponding limitation of the right of translation in Article 2bis(2), Article 9(3)(new) and Article 10(1) (see these articles below). During the discussion of these proposals the Committee considered that a general rule regarding exceptions to the right of translation was necessary and should be inserted in Article 8. It was left to the Drafting Committee to try to find a satisfactory formula and to suggest whether such a formula should be included in the text of Article 8 or merely in the Report concerning this article.

205. The majority of the Drafting Committee preferred that the existing text of the Convention should not be altered but that the following formula should be inserted in full in the Report concerning Article 8:

"The provisions of this Convention which permit a work or a part thereof to be used without the authorization of the author--that is to say Articles 2bis(2), 9(2), 9(3), 10(1), 10(2), 10bis, 11bis and 13--permit the work to be used not only in the original but also in translation, subject to the same conditions, in particular that the use is in conformity with fair practice. It should be added that in these cases, as in all cases where a work is used, the rights given to an author under Article 6bis (moral rights) are reserved."

206.

Article 11(1)

207. Under Article 11(1) of the Brussels text the authors of dramatic, dramatico-musical and musical works enjoy the exclusive right of authorizing (i) the public presentation and public performance of their works; (ii) the public distribution by any means of the presentation and performance of their works. The application of the provisions of Articles 11bis and 13 is, however, reserved. The Programme did not propose any substantial change in the Brussels text, but merely a few minor amendments to the English version.

208. The Committee adopted the text proposed in the Programme, but excluded the reference to Article 13 which was no longer regarded as necessary in view of the amendments made to that article.

209. When considering the deletion of paragraph (1) of Article 13, the Drafting Committee thought it advisable to recall that the general right of public presentation and public performance provided in Article 11 also covered what Article 13(1)(ii) of the Brussels text called the public performance of works by instruments capable of reproducing them mechanically. It therefore proposed to insert in Article 11(1)(i), after the words "the public performance of their works", the words "including such public performance by any means or process."

210. In the general report of the Brussels Conference the Rapporteur was instructed to refer explicitly, in connection with Article 11, to the possibility of what it had been agreed to call the minor reservations of national legislation. Some delegates had referred to the exceptions permitted in respect of religious ceremonies, performances by military bands and the requirements of education and popularization. The exceptions also apply to Articles 11bis, 11ter, 13 and 14. The Rapporteur ended by saying that these allusions were given lightly without invalidating the principle of the right (cf. Documents of the Brussels Conference, page 100).

211. It seems that it was not the intention of the Committee to prevent States from maintaining in their national legislation provisions based on the declaration contained in the general report of the Brussels Conference. It accordingly seems necessary to apply to these "minor reservations" the principle retained for exceptions to the right of translation, as indicated in connection with Article 8.

Article 11(2)

212. Under Article 11(2) of the Brussels text authors of dramatic or dramatico-musical works, during the full term of their rights over the original works, shall enjoy the same rights as those provided in paragraph (1) with respect to translations of their works.

213. No change was proposed in the Programme and no amendment was submitted to the Committee. Paragraph (2) remains as it was in the Brussels text.

Article 11(3)

214. Article 11(3) of the Brussels text states that authors shall not be bound, when publishing their works, to forbid the public presentation or performance thereof in order to enjoy the protection of this article. The Programme considered this prohibition of formalities superfluous and proposed that the paragraph be deleted.

215. As no amendment was submitted to the Committee it decided to delete the paragraph as proposed in the Programme.

Article 11bis (right of broadcasting)

216. Article 11bis(1) of the Brussels text deals with the exclusive right of the author to authorize the radiodiffusion and communication to the public of his work. Paragraph (2) refers to the compulsory license which national legislations may impose, subject to just remuneration, in respect of the rights referred to in paragraph (1). Paragraph (3) provides that permission for the radiodiffusion of a work does not imply permission to record the radiodiffused work, except where otherwise provided. National legislation may, however, determine the regulations for ephemeral recordings "made by a broadcasting body by means of its own facilities and used for its own emissions." Recordings may also on certain conditions be preserved in official archives.

217. The Programme considered that these rules provided an acceptable compromise between contrary interests and did not feel it necessary to propose any amendment other than some drafting amendments to the English version.

218. Brazil proposed (document S/217) a provision whereby each of the special rights included in the general broadcasting rights referred to in paragraph (1) could be exercised by the author and the right to make ephemeral recordings under paragraph (3) should not apply to profit-making organizations.

219. The United Kingdom proposed (document S/171): (i) to delete the condition that ephemeral recordings should be made by the broadcasting body "by means of its own facilities"; (ii) to restrict the right of recording to cases where "for technical or other reasons, the broadcast cannot be made at the time of the performance of the work."

220. Japan submitted a proposal (document S/112) similar to that made by the United Kingdom in respect of (i), suggesting that the words "by means of its own facilities and used for its own broadcasts" be replaced by the words "as a mere technical means for the use of the broadcasts made with permission."

221. Monaco proposed (document S/77) that ephemeral recordings might be: (i) made by or for a broadcasting organization; (ii) used for its own broadcasts and for those of other organizations under the jurisdiction of the same country.

222. All these proposals were withdrawn at the session of the Committee which discussed Article 11bis.

223. The Working Group on the régime of cinematographic works (document S/195) proposed to insert a new paragraph (4) in Article 11bis limiting the compulsory license provided for in paragraph (2). The provisions of paragraph (2) would apply in respect of the cinematographic work and works adapted or reproduced in the cinematographic work itself only in so far as they relate to the rights given in subparagraphs (ii) and (iii) of paragraph (1). But the Committee decided to make no amendment to the text of Article 11bis and the proposal of the Working Group was accordingly rejected.

Article 11ter

224. Article 11ter of the Brussels text states that the author shall have the exclusive right of authorizing the public recitation of his works. No change was proposed in the Programme.

225. The Federal Republic of Germany suggested (document S/92) including explicitly in this article the right of authorizing: (i) the public recitation of works by means of instruments capable of reproducing them mechanically and (ii) any communication to the public of recitations. This proposal was accepted by the Committee.

226. The Drafting Committee suggested (document S/269) that under paragraph (1) of this Article authors should enjoy the right of authorizing: (i) the public recitation of their works, including such public recitation by any means or process; (ii) any communication to the public of the recitation of their works. The Drafting Committee also suggested adding a paragraph (2) corresponding to paragraph (2) of Article 11, whereby authors shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

Article 12

227. Article 12 of the Brussels text deals with the exclusive right of authors to authorize adaptations, arrangements and other alterations of their works. No change was proposed in the Programme or by the countries in the Committee and the Brussels text remains unaltered.

Article 13 ("mechanical rights")

228. Article 13 of the Brussels text deals with what are called the "mechanical rights" of composers. Under paragraph (1) authors of musical works have the exclusive right of authorizing: (i) the recording of such works by instruments capable of reproducing them mechanically; (ii) the public performance by means of such instruments of works thus recorded. Paragraph (2) enables countries to introduce a compulsory license in respect of these "mechanical rights", the author being however entitled to obtain just remuneration. Paragraph (3) contains a transitions provision stipulating that the provisions of paragraph (1) do not apply retroactively to recordings lawfully made before the coming into force of the Berlin Act of 1908 or, in the case of countries acceding to the Convention at a later date, before the date of accession. Lastly, under paragraph (4) recordings are liable to seizure if they are made in accordance with paragraphs (2) and (3) and imported without permission from the parties concerned into a country which does not recognize the exceptions provided in paragraphs (1), (2) or (3).

229. The Programme proposed to delete paragraph (1), to limit the compulsory license in paragraph (2) and to put an end to the transitional system provided in paragraph (3). No amendment was made to paragraph (4), other than in references to the previous paragraphs. Owing to the deletion of paragraph (1), the other paragraphs were renumbered.

Article 13(1) (of the Brussels text)

230. The Programme proposed the deletion of this paragraph. The right of recording was included in the right of reproduction provided in the new Article 9(1) and the right of public performance in that provided in Article 11(1).

231. The Netherlands suggested (document S/230) that the first paragraph of the existing text be maintained.

232. The Committee adopted the proposal made in the Programme to delete it.

Article 13(1)

233. According to the Programme, the compulsory license under paragraph (1), which corresponds to paragraph (2) of the Brussels text, was maintained only in respect of recordings and abolished in respect of public performance by means of the recordings made.

234. Brazil proposed (document S/217) to add a sentence providing that the provisions of Article 9(2) should be applicable to musical works.

235. The Federal Republic of Germany (document S/92) and the United Kingdom (document S/171) proposed to insert in the text a reference to the words of musical works. The Federal Republic of Germany preferred

to add after the words "authors of musical works" the words "with or without words". The United Kingdom chose a slightly longer wording: "works including any words intended by their author to be performed with them."

236. The Committee adopted the proposal of the Programme, adding however a special reference to the words of musical works, in accordance with the formula used in the United Kingdom's proposal. The Drafting Committee proposed a text expressing this formula in more detail.

237. When considering the Drafting Committee's text, the Committee thought it preferable to adopt a simpler formula. The starting-point should be the fact that compulsory licenses, for example, in the United Kingdom and Germany, are based on the conception that the author of the music and the author of the words have once given their consent to the recording. On the basis of such consent, the compulsory license could operate even in respect of the words. The Drafting Committee prepared a new formula which was adopted.

Article 13(2)

238. The Programme proposed to put an end to the transitional system under paragraph (2), corresponding to paragraph (3) of the Brussels text. Only during a period not determined in the Programme, but which it was suggested should be very short, should it be permissible to reproduce, without the author's consent, recordings made in accordance with this paragraph.

239. The Federal Republic of Germany proposed (document S/92) that a reference to the words of musical works should be inserted in this paragraph too.

240. The Committee adopted the proposal in the Programme. With regard to the date on which the transitional period should end, the Drafting Committee proposed that this period should expire two years after the country where the recordings were made became bound by the Act of Stockholm.

Article 13(3)

241. This paragraph (3), which corresponds to paragraph (4) of the Brussels text, was not changed in the Programme, except for the references to the preceding paragraphs.

242. Brazil suggested (document S/217) that the reference to paragraph (1) should be deleted, that is to say that recordings made under a compulsory license should not be seized. The Committee adopted the wording proposed by the Programme.

Article 14bis (Article 14ter)

243. Article 14bis in the Brussels text deals with droit de suite. No proposal in that regard was made in the Programme and none was submitted to the Committee.

244. The Committee decided to leave that Article as it was but to change the numbering because of the decision already mentioned to insert a new Article 14bis dealing with cinematographic works.

Article 15

245. Article 15 of the Brussels text contains in paragraph (1) a definition of the person who should be regarded as the author of a work. Paragraph (2) stipulates that the publisher shall, in certain cases, be deemed to represent the author. No alteration was proposed in the Programme.

246. In the course of the Committee's work, two new provisions were inserted in Article 15, one in paragraph (2) stipulating who shall be presumed to be the maker of a cinematographic work, and the other in paragraph (4) containing certain rules applicable to unpublished works when the identity of the author is unknown. In the new draft, paragraph (2) of the Brussels text becomes paragraph (3).

Article 15(1)

247. Paragraph (1) of the Brussels text establishes the rule that the person whose name appears on the work in the usual manner shall be regarded as the author of the work, in the absence of proof to the contrary. As no proposal was submitted concerning this paragraph, it remains as it is.

Article 15(2) (new)

248. In a new paragraph (2) (see below) the Committee adopted a rule stipulating who should be regarded as the maker of a cinematographic work.

Article 15(2) (paragraph (3))

249. Paragraph (2) of the Brussels text provides that in certain cases, as regards anonymous or pseudonymous works, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author. This provision ceases to apply if the author reveals his identity and establishes his claim to authorship of the work. No proposal was submitted in regard to this paragraph. The Committee merely changed the number of the paragraph, which becomes number (3); apart from this it remains unchanged.

Article 15(4) (new)

250. In a proposal (document S/73), the Indian Delegation made several references to works of folklore. The Committee decided to consider the question of folklore, and a Working Group was set up for this purpose.

251. The Delegate of Czechoslovakia was elected Chairman of this Working Group. Czechoslovakia then proposed (document S/212) that a provision on works of folklore should be inserted in the Convention. It would be a matter for legislation in the countries of the Union to appoint the authority competent to represent the authors of works of folklore and entitled to protect and enforce the authors' rights, subject to the application of the second sentence of Article 15(2).

252. Taking as a basis the proposal of Czechoslovakia and some suggestions made by the Chairman of the Committee, the Working Group proposed (document S/240) to insert in Article 15 a new paragraph based on the following principles:

(i) the work is an unpublished one;

(ii) the author is unknown;

(iii) there is every ground to presume that the author is a national of a country of the Union;

(iv) if these three conditions are fulfilled, the legislation of that country may designate a competent authority to represent this author;

(v) the competent authority is entitled to protect and enforce the rights of the author in all the countries of the Union;

(vi) if such an authority is designated by a country, that country shall notify the Organization (WIPO) by means of a declaration in writing giving full information concerning the authority thus designated; WIPO shall communicate this declaration to all other countries of the Union.

253. The proposal of the Working Group does not mention the word "folklore," which was considered to be extremely difficult to define. Hence, the provision applies to all works fulfilling the conditions indicated above. It is clear, however, that the main field of application of this regulation will coincide with those productions which are generally described as folklore. The Working Group's proposal was adopted by the Committee.

254. It appears that the works of unknown authors constitute a special category comprised within the concept of anonymous works mentioned in the Convention in Article 7(3) and Article 15(3)(new). The term of protection of anonymous works (as prescribed in Article 7) is thus also valid in respect of the works of an unknown author. If the author reveals his identity, he may establish his claim to authorship of the work

in accordance with Article 15(3), last sentence. It appears that the work ceases to be subject to the special régime under paragraph (4) if it is published. If there is a publisher whose name appears on the work of an unknown author, such publisher may represent the author in accordance with Article 15(3), first sentence.

Article 16

255. Article 16 of the Brussels text deals in its three paragraphs with the seizure of infringing copies of a work. The Programme did not propose to amend that Article.

256. The United Kingdom proposed (document S/211) that the words "may" (be seized) in paragraph (1), and "may" (also apply) in paragraph (2), be replaced by "shall" (be seized) and "shall" (also apply).

257. That proposal was adopted by the Committee in principle, and the Drafting Committee proposed certain purely formal amendments to the text.

Article 17

258. Article 17 of the Brussels text leaves countries free "to permit, to control or to prohibit by legislation or regulation, the distribution, performance or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right." No proposal was made in the Programme concerning that Article.

259. Italy proposed (document S/226) the deletion of the words "or regulation." The United Kingdom proposed (document S/171): (i) to delete the words "to permit"; (ii) to insert a new paragraph leaving countries free to enact such legislation as is necessary "to prevent or deal with any abuse, by persons or organizations exercizing one or more of the rights in a substantial number of different copyright works, of the monopoly position they enjoy."

260. Australia presented a proposal similar to that under (ii) above (document S/215) but of a more general character. Each country would have the right to take such legislative measures as it deems necessary to prevent abuses which might result from the exercise of the rights conferred by the Convention. Such measures should not, however, be prejudicial to the moral right of the author or his right to obtain just remuneration.

261. Israel proposed (document S/223) the insertion of a new paragraph guaranteeing that the scores of musical works should be accessible to the public. This proposal, which was expressed in a resolution, will be examined later.

262. The Committee decided to adopt the proposal submitted in the above-mentioned document of the United Kingdom under item (i), that is to say, to delete the words "to permit." It also decided that the wording should be modified along the lines of the underlying ideas of the above-mentioned Italian proposal.

263. In addition, the Committee accepted, without opposition, the proposal of its Chairman that mention should be made in this report that questions of law and order shall always be a matter for domestic legislation and that the countries of the Union are therefore able to take all necessary measures to restrict possible misuses of monopolies.

Article 18

264. Article 18(1) of the Brussels text stipulates that the Convention is to apply to all works that have not fallen into the public domain in the country of origin through the expiry of the term of protection, and Article 18 also includes in paragraphs (2) to (4) some other provisions concerning matters arising in that respect. As no proposals were made either in the Programme or in the Committee for alteration of this Article, it has been retained in its original form.

Article 19

265. Article 19 of the Brussels text stipulates that the Convention shall not preclude the making of a claim to the benefit of any wider provisions which may be afforded by domestic legislation. No proposal was submitted in this connection either in the Programme or to the Committee, and Article 19 therefore remains in its original form.

Article 20

266. Article 20 of the Brussels text contains provisions concerning the right of the countries of the Union to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to the Convention. No proposal was submitted in this connection either in the Program or to the Committee, and Article 20 therefore remains in its original form.

IV. REGIME OF CINEMATOGRAPHIC WORKS

267. Cinematographic works are expressly mentioned in the Brussels text in Article 2(1), Article 4(5), Article 7(3), Article 10bis and Article 14; of these the last named is the most important and it deals

only with cinematographic works. Article 4(5), which defines the concept of publication, and Article 10bis, which concerns the reporti of current events, may be left out of account in this section since they do not refer to special problems relating to cinematographic wor Article 2(1) mentions "cinematographic works and works produced by a process analagous to cinematography" as a category of protected works Article 7(3) refers to the term of protection of cinematographic work according to the law of the country where protection is claimed. The term is not, however, to exceed the term fixed in the country of orig of the work.

268. Article 14(1) deals with the exclusive right of authors of pre existing works to authorize: (1) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced; (2) the public presentation and performance the works thus adapted or reproduced. Paragraph (2) lays it down that a cinematographic work is to be protected as an original work, without prejudice to the rights of the author of the pre-existing work. Paragraph (3) gives the author of a cinematographic work the right to authorize its adaptation. Paragraph (4) excludes cinematographic adaptations from the rules concerning the compulsory license in Article 13(2). Paragraph (5) stipulates that the provisions of Article 14 apply equally to works effected by any other process analogous to cinematography.

269. The Programme proposed substantial changes in the present syste as a result of the development of television since the Brussels Confe amongst other things. In Article 2(1) and (2) it offered a new defini of cinematographic works. New provisions in Article 4(4) and Article made the headquarters or habitual residence of the maker of a film the decisive factor, in certain cases, in regard to the country of origi or the eligibility criterion of the work. In Article 4(6) the Progr proposed a definition of the maker of a cinematographic work. The Programme also proposed new rules for the term of protection of cinematographic works in place of the provision in Article 7(3) of the Brussels text. In addition to the general rule in Article 7(1), it introduced as a variation for national legislations certain rules which are included in a new Article 7(2).

270. In Article 14(1) to (3), the Programme submitted provisions in existing works which corresponded to the provisions of the present Article 14(1) to (5). In paragraphs (4) to (7), the Programme introd certain interpretative rules concerning contracts between authors and makers of cinematographic works.

271. The Committee decided to adopt amendments or new provisions in the same paragraphs as those of the Programme. Certain rules on the lines as those suggested by the Programme in Article 14(4) to (7) were, however, placed in a new Article 14bis, with the result that the pres Article 14bis was renumbered 14ter.

272. No definition of the maker was introduced in Article 4(6). Further, a new provision, which will be mentioned at the appropriate point in this report, was inserted in Article 15 in order to determine who is to be considered as the maker of the film.

273. Where the numbering of the draft adopted by the Committee differs from that of the Programme, the new numbers will be shown in brackets in this report.

Article 2(1) and (2) (paragraph (1))

274. The Programme proposed that works assimilated to cinematographic works should be given a somewhat different definition from that contained in Article 2(1) of the Brussels text. The Programme replaced the phrase "works produced by a process analogous to cinematography" by the term "works expressed by a process producing visual effects analogous to those of cinematography." This definition was limited, however, to works "fixed in some material form." The assimilated work was thus defined in a new paragraph (2).

275. Bulgaria (document S/89) and Yugoslavia (document S/107) proposed that a new category of protected works should be introduced: "televisual works." For this reason, the definition of a cinematographic work contained in paragraph (1) of the Brussels text was to be retained, but the words "televisual works" were to be inserted after that definition and the new paragraph (2) was to be deleted.

276. Italy (document S/161) also favored the deletion of paragraph (2). It preferred to retain the assimilated works in paragraph (1), but defining them in a way different from that of the Brussels text and the Programme: "works expressed by a process analogous to cinematography."

277. Portugal (document S/110) and the Federal Republic of Germany (document S/92) submitted proposals concerning the requirement of fixation. Portugal wished to insert a new subparagraph in paragraph (2) enabling countries to protect specifically as cinematographic works works which are not fixed. The Federal Republic of Germany proposed that the words "fixed in some material form" should be deleted from paragraph (2) of the text of the Programme. In their place, a new phrase was to be inserted stating that there would be no obligation to protect as a cinematographic work a series of visual images not recorded on some material support.

278. The question was referred to the Working Group on the Régime relating to Cinematographic Works, which presented a proposal (document S/190) based on the Italian amendment (document S/161). The definition of a cinematographic work was to be transferred in its entirety to paragraph (1) and drafted as follows: "cinematographic works to which are assimilated those expressed by a process analogous to cinematography." Paragraph (2) of the Programme was to be deleted. The condition of fixation was no longer required as a general rule, but a provision giving countries the right to introduce fixation as a condition of protection of a work was inserted in a new paragraph (2) (see above). The Committee adopted that proposal by the Working Group.

Article 4(4)(c)(i) (Article 5(4)(c)(i))

279. As regards the country of origin of cinematographic works, the Programme presented the following solution. The first criterion for the country of origin would be publication ((a) and (b)) in the new and wider sense adopted in Article 4(5), making the country where the film is made (to a greater extent than at present) the country of origin of the film. If the cinematographic work is unpublished, the second criterion would be the country of the Union of which the maker is a national or in which he has his domicile or headquarters ((c)(i)). If the first or second of these criteria does not apply, the country of the Union of which the author is a national would constitute the third criterion ((c)(iii)).

280. Switzerland proposed (document S/63) that the words "habitual residence" be substituted for the word "domicile."

281. The Working Group suggested (document S/190) that item (c)(i) of the Programme should be adopted, except for two points: (i) the provision should not contain any reference to the nationality of the maker; (ii) the words "habitual residence" should be introduced instead of the word "domicile", in accordance with the abovementioned Swiss proposal. The Committee adopted the proposal of the Working Group and inserted that provision in Article 5(4)(c)(i) of the new draft.

Article 4(6)(-)

282. The Programme proposed inserting in Article 4(6) a definition of the maker of a cinematographic work: "the person or body corporate who has taken the initiative in, and responsibility for, the making of the work."

283. Several proposals were submitted to amend that definition or to delete it. New definitions were proposed by the United Kingdom (document S/42) and India (S/73), while France (document S/27) and Hungary jointly with Poland (document S/43) proposed the deletion of the paragraph in question.

284. Italy proposed an amendment (document S/168) according to which paragraph (6) should not contain a definition of the maker but only a presumption. The maker of the cinematographic work would be presumed to be the person indicated as such in the credit titles of the film.

285. The Working Group proposed (S/190), like France, Hungary, and Poland, to delete paragraph (6) from the text of the Programme. At the same time, however, it proposed to insert in a suitable place a provision reproducing in a slightly amended form the presumption suggested by Italy.

286. The Committee adopted that proposal by the Working Group, and the Drafting Committee then suggested the insertion of the new rule in Article 15(see above). Thus, the draft would no longer contain a new paragraph (6) in Article 4.

Article 6(2) (Article 4(a))

287. The Programme proposed in a paragraph (2) of Article 6 a new criterion of eligibility in respect of cinematographic works which were unpublished or which were first published only outside the Union. The criterion would be the country of the Union of which the maker is a national or in which he has his domicile or headquarters (see Article 4(4)(c)(i) regarding country of origin).

288. France proposed (document S/28) to delete this paragraph. The United Kingdom proposed (document S/42) to add at the end of the paragraph a sentence to the effect that the countries of the Union should be free to treat the maker of a cinematographic work as its author.

289. The Working Group proposed (document S/190) to adopt paragraph (2) of the Programme with amendments corresponding to those made to Article 4(4)(c)(i), namely to delete the criterion of the nationality of the maker and to replace "domicile" by "habitual residence." As regards the United Kingdom proposal, it was agreed that it was not necessary to insert the proposed sentence, as it was generally admitted that the Convention has always been interpreted in the manner suggested in that proposal.

290. The Committee adopted the Working Group's proposal and included this provision in Article 4(a) of the new draft. The wish was expressed that the report should state that a cinematographic work which is the result of joint making is protected in the Union if one of the joint makers has his headquarters or his habitual residence in a country of the Union.

Article 7(2)

291. The Programme proposed new rules for the term of protection of cinematographic works. In general cinematographic works should be subject to the general term of protection provided in Article 7(1), that is to say, during the author's life and fifty years after his death. According to paragraph (2), national legislation may however provide for a special term of protection in respect of this category of works, namely that protection shall expire fifty years after the first publication, public performance or broadcast. Failing such an event within fifty years from the making of such a work, the term would expire fifty years after such making.

292. Hungary proposed (document S/91) to delete this paragraph and to control the term of protection of cinematographic works in Article 7(4) in the same way as that proposed in the Programme in respect of works of applied art and photographic works.

293. Portugal proposed (document S/152) that the term of protection should be fixed by national legislation in such a way as to allow a fair return on the investment made, and suggested certain rules regarding the date from which the term should begin to run.

294. The United Kingdom proposed (document S/42) that the words "after the first publication, public performance or broadcast" should be replaced by the words: "after the work has been made available to the public with the consent of the author."

295. The Working Group proposed to adopt the text of the Programme as amended in accordance with the suggestion made in the draft proposal by the United Kingdom. The Committee adopted the Working Group's proposal.

296. Article 14 of the Brussels text consists of five paragraphs. Paragraph (1) deals with the exclusive right of authors of "pre-existing works", often called "classical authors". Paragraph (2) deals with the protection of cinematographic works in the strict sense. Such authors may be called "modern authors". Paragraph (3) deals with the right to adapt cinematographic works. Paragraph (4) excludes cinematographic adaptations of works from the compulsory license referred to in Article 13(2). Paragraph (5) provides that Article 14 shall also apply to works effected by any other process analogous to cinematography.

297. The Programme deleted paragraph (5) which was considered superfluous in view of what had been proposed in Article 2(2), and transferred paragraph (4) to a final sentence in paragraph (1). Some amendments were made to paragraphs (1) and (2), while paragraph (3) remained as it was. The Programme added to this Article paragraphs (4) to (7) concerning the "rules of interpretation for agreements" which refer to both classical and modern authors.

298. The Committee decided to deal only with the protection of "classical" authors in Article 14 and to reserve Article 14bis for the protection of "modern" authors covering the rules of interpretation or as it was commonly called by the Committee, the "presumption of legitimation". At the same time this presumption was reduced to refer to modern authors alone. In accordance with previous practice, the report follows the numbering of the Programme and gives the numbering of the final draft in brackets.

Article 14(1) (paragraphs (1) to (3))

299. Paragraph (1) of the Brussels text gives classical authors the exclusive right of authorizing: (i) the cinematographic adaptation and reproduction of their works and the distribution of the works thus adapted or reproduced; (ii) the public presentation and performance of the works thus adapted or reproduced.

300. The Programme proposed only two amendments. To the rights referred to under (2) it added the right of communication to the public by wire.

In addition, it incorporated paragraph (4) of the Brussels text in a shorter formula inserted as the final sentence, whereby the compulsory license would not apply to the rights mentioned in paragraph (1).

301. The Federal Republic of Germany proposed (document S/92): (i) to mention the right to broadcast the work among the rights provided in paragraph (1); (ii) to exclude the application of Article 11bis, paragraph (2) but to maintain the application of Article 11bis(3).

302. The Working Group on the régime of cinematographic works proposed (document S/195) to adopt the text of the Programme with two amendments: (i) the last sentence, referring to the non-application of the compulsory license under Article 13(1), was to be the subject of a special paragraph (3); (ii) a limitation of the compulsory license under Article 11bis(2), on the lines proposed by the Federal Republic of Germany in the above-mentioned proposal, should be inserted in a new paragraph (4) of Article 11bis (see above regarding Article 11bis).

303. The Committee adopted the text of the Programme amended in accordance with the first part of the Working Group's proposal and decided not to follow the second part of the proposal.

Article 14(2) (Article 14bis(1))

304. Paragraph (2) of the Brussels text provides in a single sentence that a cinematographic work, that is to say the work of "modern" authors, is to be protected as an original work. The Programme retained the sentence but added a second one stating that "modern" authors were to enjoy the same rights as the author of an original work including the right referred to in the previous paragraph. No proposal on this point was submitted to the Committee.

305. The Committee adopted the Working Group's proposal (document S/195) to accept the text of the Programme, but to place it in paragraph (1) of the new Article 14bis dealing with "modern" authors.

Article 14, paragraph (3) (paragraph (2))

306. The Brussels text of paragraph (3) provides that adaptations of cinematographic productions derived from pre-existing works shall, without prejudice to the authorization of the "modern" authors, remain subject to the authorization of the "classical" authors. No changes were proposed in the Programme nor in the Committee. On the suggestion of the Working Group, the Committee merely changed the number of this paragraph, which becomes paragraph (2) of Article 14.

Article 14 paragraphs (4) to (7) Article 14bis paragraphs 2 and 3

307. The Programme proposed the insertion in paragraphs (4) to (7) of Article 14 of a rule concerning interpretation of agreements between authors and makers on the exploitation of cinematographic works. This proposal was based on the following ideas:

(i) this rule would apply to both "modern" and "classical" authors, but a country could, according to paragraph (7), exclude "classical" authors from its application. This should be notified to the Director of the new Organization intended to replace BIRPI;

(ii) this interpretation rule presupposed that the author agreed to assign certain rights to the maker. "Classical" authors should have authorized the cinematographic adaptation and reproduction of their works, whereas "modern" authors should have undertaken to bring literary or artistic contributions to the making of the cinematographic work;

(iii) the consent of the authors should concern the fixation of their works in some material form;

(iv) the consent should have been given in the manner prescribed by the legislation of the country of origin;

(v) the countries of the Union could provide that the consent should be given by a written agreement or something having the same force;

(vi) if the above conditions were fulfilled, the author might not, in the absence of any contrary or special stipulation, object to the exploitation of the cinematographic work, that is to say, to the reproduction, distribution, public performance, communication to the public by wire, broadcasting, any other communication to the public, subtitling and dubbing of the text;

(vii) by "contrary or special stipulation" was meant any restrictive condition agreed between the maker and the authors;

(viii) unless national legislation provided otherwise, the interpretation rule should not apply, according to paragraph (6), to the rights in musical works, with or without words, used in the cinematographic work;

(ix) countries might, according to paragraph (5), provide, for the benefit of authors, a participation in the receipts resulting from the exploitation of the cinematographic work.

308. A number of proposals were submitted to the Committee.

309. (1) As to paragraphs (4) to (7) as a whole: Yugoslavia proposed (document S/107) to delete paragraphs (4) to (7) and, therefore, in principle to maintain the Brussels text. The United Kingdom proposed (document S/101) to exclude from the application of the interpretation rule countries whose legislation grants copyright in a cinematographic work to its maker. Monaco proposed (document S/115), inter alia, to reserve expressly the right for countries whose systems differ from that on which Article 14(4) was based, although having similar effects to the interpretation rule, to maintain their systems, for example the "film copyright" system in force in the United Kingdom and several other countries and the "cessio legis" system in force in Italy and Austria.

310. (2) As to point (i) above: Japan proposed (document S/111) to delete paragraph (7), which would mean that "classical" authors could not be excluded by national legislation from the interpretation rule. Belgium proposed (document S/144) to exclude all pre-existing works from the interpretation rule, except for dialogues and scenarios which could, however, also be excluded under certain conditions.

311. (3) As to points (iv) and (v) above, the Federal Republic of Germany proposed (document S/92) that countries of the Union should have the right to provide with respect to cinematographic works of which they are the country of origin, that the authorization or undertaking shall be given by a written agreement or something having the same force.

312. (4) In regard to item (v) mentioned above, France proposed (document S/130) that a written contract should be an obligatory condition for the application of the interpretation rule. On the other hand, Japan proposed (document S/111) that the phrase dealing with the right to demand a written form for the authorization or undertaking should be deleted.

313. (5) In regard to item (vi) above, Monaco proposed (document S/115) that the text should refer only to exploitation, instead of listing all the actions to which authors might not object. Moreover, the interpretation rule should apply notwithstanding any previous assignment.

314. (6) In regard to item (viii) above, Monaco proposed (document S/115) that paragraph (6) should be deleted, so that musical works should also be subjected to the interpretation rule.

315. (7) In regard to item (ix) above, Hungary proposed (document S/139) that the optional provision in paragraph (5) should be made obligatory in regard to participation in receipts, while Monaco proposed (document S/115) that this provision should be deleted.

316. (8) In regard to the insertion of new provisions, Monaco proposed (document S/115) that a new paragraph should be inserted, stating that authors could not, subject to the application of Article 6bis and in the absence of any contrary or special stipulation, oppose alterations that might become indispensable for the exploitation of the cinematographic work.

317. The Working Group proposed (document S/195) a more modest regulation than that in the Programme. It suggested that Article 14 should be kept exclusively for pre-existing works, and that these should be completely excluded from the interpretation rule, or rather from the "presumption of legitimation," to use the term generally employed in the Committee, as opposed to the term "presumption of assignment." Article 14bis would group all the provisions concerning the cinematographic work itself and its "modern" authors. Paragraph (1) would reproduce paragraph (2) of the Programme without modification. Paragraph (2) would include, in a subparagraph (a), a rule for the determination of the ownership of copyright, while a subparagraph (b) would deal with the presumption of legitimation, a subparagraph (c) would contain a provision dealing with written agreements and a subparagraph (d) would contain a definition of the contrary or special stipulation. Paragraph (3) would contain provisions concerning certain authors constituting borderline cases between Articles 14 and 14bis.

318. The system proposed by the Working Group was based on the following ideas:

(i) the presumption should be limited to "modern" authors;

(ii) the presumption should not apply to authors of scenarios, dialogues and musical works specially created in the making of the cinematographic work, unless the national legislation provides to the contrary (paragraph (3)). It may be noted that musical works which are not specially created for a cinematographic work will come entirely under the régime of pre-existing works in Article 14;

(iii) according to a general principle of the Berne Convention, ownership of copyright in a cinematographic work should (according to paragraph (2)(a))be a matter for legislation in the country where protection is claimed. This means, for instance, that English law applies to the person who is regarded as the author of the cinematographic work when the work is utilized in the United Kingdom and that French law applies to the person who is regarded as the author when the work is utilized in France. Taking as an example the director of a film, he is not regarded as an author under the system of "film copyright." Under the system of "legal assignment" the ownership of copyright is considered in this regard as belonging to the maker, as paragraph (2)(a) applies not only in cases where the copyright as a whole belongs to a particular person, but also to cases where some elements of copyright are assigned, like the right of economic exploitation under the system of "legal assignment";

(iv) the presumption would apply only in countries which regard "modern" authors as the owners of copyright in the cinematographic work. Hence those countries which use the system of "film copyright" or that of "legal assignment" would fall outside the scope of this application. Nevertheless, these systems have the same effects in their application, taken as a whole, as the presumption of legitimation provided for in paragraph (2)(b);

(v) the authors should have undertaken to bring contributions to the making of the cinematographic work;

(vi) the legislation of the country where the maker has his headquarters or habitual residence should, according to paragraph (2)(c), govern the form of the undertaking. That country may require a written agreement or something having the same force;

(vii) if the conditions specified above are fulfilled, the "modern" authors may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public, or to the subtitling, or dubbing of the texts of the cinematographic work. The formula is the same as that used in the Programme;

(viii) by "contrary or special stipulation" should be understood, according to paragraph (2)(d), any restrictive condition which may be relevant to the undertaking referred to in paragraph (2)(b). This formula is, except for some amendments in wording, the same as that used in the Programme.

319. The Committee began by adopting the proposal of the Working Group. After further discussions, however, it considered that the adopted text would not adequately meet the urgent demands of certain countries. The text of the Working Group was finally adopted but with amendments on two points.

320. The first amendment refers to point (ii) above. The principal director shall be placed in the same situation as the authors of scenarios, dialogues, and musical works, and will thus not be affected by the presumption, unless the national legislation provides otherwise. It is prescribed, however, that if the legislation of a country does not include the principal director among the authors to whom the presumption applies, such country shall be obliged to notify the Director of the Organization intended to take the place of BIRPI.

321. The second amendment refers to point (vi) above. The form of the undertaking shall be governed by the legislation of the country where protection is claimed instead of the legislation of the country where the maker has his headquarters or habitual residence.

322. It has been requested that the following statements be inserted in the report. The presumption of legitimation prescribed in paragraph (2) shall be mandatory for the countries. It is not possible for those countries of the Union which consider the "modern" authors as owners of copyright in the cinematographic work to maintain or introduce legislation that does not include a presumption of legitimation in accordance with Article 14bis(2).

323. The presumption of legitimation does not affect the right of the author to obtain remuneration for the exploitation of the cinematographic work. The

countries of the Union are, therefore, free to introduce any system of remuneration they wish, for example to provide for the benefit of the authors a participation in the receipts accruing from the exploitation of the cinematographic work.

324. The right of the maker to make, even without the consent of the authors, changes in the cinematographic work is a matter for national legislation and subject to the interpretation of the contract between the authors and the maker. The moral right referred to in Article 6bis of the Convention must, however, be respected.

Article 15(2) (new)

325. As has already been stated above, the Committee decided to insert, on the basis of a proposal submitted by Italy (document S/168) and slightly amended by the Drafting Committee, a provision according to which the person or body corporate whose name appears on a cinematographic work in the customary manner shall, in the absence of proof to the contrary, be presumed to be the maker of that work.

V. JOINT MEETINGS WITH OTHER COMMITTEES

Article 25ter (right of translation document S 9

326. According to Article 8 of the Brussels text, the right of translation enjoyed by the author lasts throughout the term of protection of the original work. However, in accordance with Article 27(2) the countries of the Union could still retain the benefit of reservations formulated previously. One of these reservations maintained in favor of some countries was to apply Article 5 of the Paris text (1896) instead of Article 8 of the Brussels text; this made it possible in certain conditions to respect the right of translation only during a period of ten years from the publication of a work. Article 25(3) of the Brussels text permits countries outside the Union to benefit from this reservation on acceding to the Union.

327. The Programme (document S/9, Article 25ter) proposed to delete the reservation regarding the right of translation. Questions relating to reservations come under Main Committee IV. After asking the opinion of Main Committee I, the majority of whom voted to maintain the reservation in favor not only of Union countries but also of countries acceding to the Stockholm Act, Main Committee IV took its decision on those lines.

328. A proposal having been submitted by Italy in respect of Article 25ter, paragraphs (2) (b) and (c) (documents S/245 and 259), Main Committees I and IV decided at a joint meeting to adopt, in accordance with this proposal, the principle that countries of the Union not availing themselves of the right of reservation in respect of the right of translation shall be entitled to apply

the principle of equivalent protection in regard to works having as their country of origin a country which avails itself of that reservation. Nevertheless, this system applies only to cases where the reservation was made by a country outside the Union; the principle of reciprocity cannot be applied with regard to countries of the Union availing themselves of the reservations in question.

VI. WISHES EXPRESSED BY THE COMMITTEE; MISCELLANEOUS PROPOSALS. ADDITIONAL PROTOCOLS

Extension of the term of protection

329. The Federal Republic of Germany proposed that the Committee adopt the wish, for expression by the Conference, that negotiations should be continued between the countries concerned for the conclusion of a Special Agreement on the extension of the term of protection in countries parties to that Agreement (document S/205). This proposal was at first rejected by the Committee, but was then reconsidered and adopted with certain modifications proposed by the Drafting Committee (document S/269).

Article 6bis (deposit of a facsimile of certain works)

330. Austria proposed (document S/147) to include in Article 6bis a new paragraph (4) containing a provision whereby it would be incumbent on the publisher of literary, musical or dramatico-musical works published in a country of the Union to "deposit in the national library or archive of that country a facsimile copy of the earliest and most authentic text or score of the work in the form and version finished and approved by the author." The conditions of the deposit would be a matter for national legislation.

331. After lengthy discussion the Committee decided to express the wish that the International Bureau of the Union should undertake a study of the question in order that consideration may be given to the possibility of including provisions relating to them in a future revision of the Convention.

Article 17 (provisions regarding the accessibility of musical works to the public)

332. Israel proposed (document S/223) to insert a new paragraph (3) in Article 17 under which it would be a matter for legislation in the countries of the Union to take measures whereby, "when a musical or dramatico-musical work has been made available with the consent of the author thereof, the graphic copies of the work shall be made accessible to the public without restrictions contrary to fair practice."

333. On this matter the Committee expressed the same wish as it had done on the abovementioned Austrian proposal.

Copyright in works created on commission or in fulfilment of the author's task as an employee

334. Hungary proposed (document S/196) to include in the Convention a new provision whereby works created on commission or in fulfilment of the author's task as an employee can be used only "for purposes belonging to the employer's own functions and in a manner not prejudicial to the moral rights of the author.".

335. After discussion, the Hungarian Delegation withdrew its proposal, provided it was recorded in the present report.

Additional Protocol concerning the Protection of the Works of Stateless Persons and Refugees

336. The Programme proposed an Additional Protocol providing that any country of the Union may declare that stateless persons or refugees or both are assimilated to the nationals of that country. This proposal was also to refer to the provisions regarding ratification or accession.

337. After the Committee had adopted the proposal to provide in Article 4(2) that persons having their habitual residence in a country of the Union should be assimilated to nationals of that country, the proposal to establish an Additional Protocol in respect of stateless persons and refugees became superfluous. The Committee accordingly decided to delete that Protocol.

Additional Protocol concerning the application of the Convention to the Works of certain International Organizations

338. Taking its inspiration from the idea underlying Protocol No. 2 annexed to the Universal Copyright Convention, the Programme proposed an additional Protocol which would make Articles 4, 5 and 6 of the Convention applicable to works first published by the United Nations and by its Specialized Agencies.

339. A proposal submitted by Belgium, Luxembourg and the Netherlands (document S/237) was designed to extend the protection to the works of international intergovernmental organizations that have their headquarters in a country of the Union or whose members are for the greater part countries of the Union.

340. During the discussions in the Committee, it was pointed out that the introduction of such an additional Protocol was not necessary, since the works of the organizations in question were in any case protected if they were first published in a country of the Union or if their authors were nationals of a country of the Union. The Committee finally rejected the proposal to annex to the Convention an additional Protocol concerning the works of certain international organizations.

341. The Rapporteur would here like to express his profound gratitude to the Committee's Secretary, Mr. Claude Masouyé (BIRPI); for the untiring assistance and collaboration afforded by him in the preparation of this report. He would also like to draw attention to the notable spirit of international cooperation with which the deliberations of the Committee have been imbued and which has enabled it to accomplish a work of importance for the future of the Convention.

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BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N°S/271/Corr.1
Subject (Union): Berne
Original: English
Distribution: Main Committee I

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

Corrigendum to document S/271
(English text only)

The following corrections should be made to the English text of document S/271:

1. Insert the following on page 34 after paragraph 205:

"Draft text to replace the Addendum to document S/269

206. As regards the right of translation in cases where a work may, in accordance with the provisions of the Convention, be lawfully used without the consent of the author, a lively debate took place in the Committee and gave rise to certain statements on general principles of interpretation. While it was generally agreed that Articles 2bis(2), 9(2), 9(3), 10(2) and 10bis virtually imply the possibility of using the work not only in the original but also in translation, subject to the same conditions, in particular that the use is in conformity with fair practice, and that here, as in all cases where the work is used, the rights given to an author under Article 6bis (moral rights) are reserved, different opinions were expressed regarding the lawful uses provided in Articles 11bis and 13. Some delegations considered that these articles also apply to the translated work provided the above conditions are fulfilled. Other delegations, including Belgium, France and Italy, considered that the wording of these Articles in the Stockholm text does not permit of the interpretation that the possibility of using a work without the consent of the author also includes, in these cases, the possibility of translating it. In this connection, these delegations pointed out, on the level of general principles, that a commentary on the discussion could not result in an amendment or extension of the provisions of the Convention."

2. Insert the following title between paragraphs 295 and 296 on page 48:

"Article 14 (Articles 14 and 14bis)"

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 7, 1967 N° S/272
Subject (Union): Berne
Original: English/French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (DOCUMENT S/1)

PROTOCOL REGARDING DEVELOPING COUNTRIES

Text proposed by the Drafting Committee

Article 1

Any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to the Act of this Convention of which this Protocol forms an integral part and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in the Act, may, by a notification deposited with the ....., at the time of making a ratification or accession, which includes Article 20bis of the Act declare that it will, for a period of the first ten years during which it is a party thereto, avail itself of any or all of the following reservations:

(a) substitute for the term of fifty years referred to in paragraphs (1), (2) and (3) of Article 7 of this Convention a different term, provided that it shall not be less than twenty-five years; and substitute for the term of twenty-five years referred to in paragraph (4) of the said Article a different term, provided that it shall not be less than ten years;

(b) substitute for Article 8 of this Convention the following provisions:

(i) authors of literary and artistic works protected by this Convention shall enjoy in countries other than the country of origin of their works the exclusive right of making and of authorizing

the translation of their works throughout the term of protection of their rights in the original works. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is to be claimed;

(ii) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, a translation of such work has not been published in that country into the national or official or regional language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to translate the work and publish the work so translated in any of the national or official or regional languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language in that country are out of print;

(iii) if the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iv) due provision shall be made by domestic legislation to assure to the owner of the right of translation a just compensation, to assure payment and transmittal of such compensation subject to national currency regulations, and to assure a correct translation of the work;

(v) the original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for

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

(vi) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vii) should, however, the author avail himself of the right under subparagraph (i) above during the term of ten years from the date of first publication, the license shall terminate from the date on which the author publishes or causes to be published his translation in the country where the license has been granted, provided, however, that any copies of the translation already made before the license is terminated may continue to be sold;

(viii) should, however, the author not avail himself of the right under subparagraph (i) above during the said term of ten years, compensation under the non-exclusive license referred to above shall cease to be due for any uses made after the expiry of such term;

(ix) should the author be entitled to exclusive translation rights in a country by having published or caused to be published a translation of the work in that country within ten years from the date of first publication, but should thereafter during the term of the author's copyright in the work all editions of the authorized translation in that country be out of print, then a non-exclusive license to translate the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (ii) to (vi) above, but subject to the provisions of subparagraph (vii) above;

(c) apply the provisions of Article 9, paragraph (1) of this Convention subject to the following provisions:

(i) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, such work has not been published in that country in the original form in which it was created, by the owner of the right of reproduction or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to reproduce and publish such work for educational or cultural purposes; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to produce and publish such work for educational or cultural purposes, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of such work in its said original form in that country are out of print;

(ii) if the owner of the right of reproduction cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of reproduction is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iii) due provision shall be made by domestic legislation to assure to the owner of the right of reproduction a just compensation, to assure payment and transmittal of such compensation, subject to national currency regulations, and to assure an accurate reproduction of the work;

(iv) the original title and the name of the author of the work shall be printed on all copies of the published reproduction. The license shall be valid only for publication in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union for educational or cultural purposes if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferable by the licensee;

(v) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vi) should, however, the author avail himself of the right to reproduce the work, the license shall terminate from the date on which the author publishes or causes to be published his work in its said original form in the country where the license has been granted, provided, however, that any copies of the work already made before the license is terminated may continue to be sold;

(vii) should the author publish or cause his work to be published in its said original form in a country, but should thereafter during the term of the author's copyright in the work all authorized editions in such original form in that country be out of print, then a non-exclusive license to reproduce and publish the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (i) to (v) above, but subject to the provisions of subparagraph (vi) above;

(d) substitute for paragraphs (1) and (2) of Article 11bis of this Convention the following provisions:

(i) authors of literary and artistic works shall enjoy the exclusive right of authorizing the broadcasting of their works and the communication to the public of the broadcast of the works if such communication is made for profit-making purposes;

(ii) the national legislations of the countries of the Union may regulate the conditions under which the right mentioned in the preceding subparagraph shall be exercised, but the effect of those conditions will be strictly limited to the countries which have put them in force. Such conditions shall not in any case prejudice the moral rights of the author, nor the right which belongs to the author to obtain an equitable remuneration which shall be fixed, failing agreement, by the competent authority;

(e) reserve the right, exclusively for teaching, study and research in all fields of education, to restrict the protection of literary and artistic works, provided due provision shall be made by domestic legislation to assure to the author a compensation which conforms to standards of payment made to national authors; the payment and transmittal of such compensation shall be subject to national

currency regulations. Copies of a work published pursuant to reservations under this paragraph may be imported and sold in another country of the Union for purposes as aforesaid if that country has invoked the said reservations and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union which cannot take advantage of this Protocol are prohibited in the absence of agreement of the author or his successor in title.

Article 2

Any country which no longer needs to maintain any or all the reservations made in accordance with Article 1 of this Protocol shall withdraw such reservation or reservations by notification deposited with the ••••••••••

Article 3

Any country which has made reservations in accordance with Article 1 of this Protocol, and which at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still does not consider itself in a position to withdraw the reservations under the said Article 1, may continue to maintain any or all the reservations until it ratifies or accedes to the Act adopted by the next Revision Conference of this Convention.

Draft Resolution

"The Intellectual Property Conference of Stockholm,

Recognizing the special economic and cultural needs of developing countries,

Desirous of enabling developing countries to have access to works protected by copyright for their educational requirements,

Having for this purpose adopted the Protocol Regarding Developing Countries,

Recommends the International Bureau of the Berne Union to undertake in association with other governmental and non-governmental organizations a study of ways and means for creating financial machinery to ensure a fair and just return to authors."

Article 4

If in conformity with the established practice of the General Assembly of the United Nations. a country should cease to be regarded as a developing country, the ..... shall give notification of such cessation to the country concerned and to all of the other countries of the Union. At the expiry of a period of six years from the date of such notification the said country shall no longer have the right to maintain any of the reservations under this Protocol.

Article 5

(1) Any country of the Union may declare, as from the signature of this Convention, and at any time before becoming bound by Articles 1 to 20bis of this Convention and of this Protocol,

(i) in the case of a country referred to in Article 1 of this Protocol, that it intends to apply the provisions of this Protocol to works whose country of origin is a country of the Union which admits the application of the reservations under the Protocol, or

(ii) that it admits the application of the provisions of the Protocol to works of which it is the country of origin by countries which, on becoming bound by Articles 1 to 20bis of this Convention and by this Protocol, or on making a declaration of application of this Protocol by virtue of the provision of item (i), have made reservations permitted under this Protocol.

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

Article 6

Any country which has made a declaration or notification under Article 26, paragraph (1), of this Convention in respect of territories which, on the date of the signature of this Convention, are not responsible for their external relations, and the situation of which can be regarded as analogous to that of the countries referred to in Article 1 of this Protocol, may notify the ..... that the provisions of this Protocol shall apply to all or part of those territories and may in such notification declare that any such territory will avail itself of any or all the reservations permitted by this Protocol.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 8, 1967 N° S/273
Subject (Union): WIPO
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

REPORT ON THE WORK OF MAIN COMMITTEE V (WIPO)

I. Preamble

1. When the Unions of Paris and Berne were set up in 1883 and 1886 they were provided with Secretariats possessing limited functions: their main task was to gather information, carry out studies respecting intellectual property and to make the results of their work available to the members of the Unions. In accordance with the then usage, a Government, in the event the Government of the Swiss Confederation, assumed the duties of administering the Conventions. Further, the Secretariats were placed under its authority and it was entrusted with their organization and the supervision of their operations. The Swiss Government, wishing to make the administrative services of the Unions function as efficiently and economically as possible, later combined the two Secretariats, which thereafter became the "United International Bureax for the Protection of Industrial, Literary and Artistic Property" (BIRPI) under one Director. That situation has continued until the present.

2. After the second World War, the member States of the Unions felt the legitimate desire to exercise a more decided influence on the development of the Unions and on the functioning of BIRPI. They, therefore, established consultative organs, in particular the Permanent Bureau of the Paris Union and the Permanent Committee of the Berne Union, which have met jointly since 1967 as the "Interunion Coordination Committee."

3. It was the Coordination Committee that recommended in 1962 carrying out a study with a view to reforming the Unions and BIRPI and adapting them to the system of present-day intergovernmental organizations. The projects drawn up by BIRPI were submitted in 1964 to a Working Party, and then to a Committee of Governmental Experts, which met in 1965 and 1966.

It was the texts decided by this Committee of Experts which, after having been amended on some points by BIRPI (whom the Swedish Government had entrusted with that task), were proposed to the Diplomatic Conference of Stockholm (documents S/3 to S/10).

4. The general lines of the proposed reform are as follows:

(a) The Unions retain their complete independence and their own functions; between Revision Conferences each Union is placed under the exclusive authority of the Assembly of member States of that Union.

(b) A new organization, the World Intellectual Property Organization (WIPO) shall be set up alongside the Unions; all States members of a Union, and States that satisfy certain conditions indicated in the Convention, shall be eligible for membership. This Organization is entrusted essentially with coordination of the administrative activities of the Unions and the promotion of the protection of intellectual property throughout the world.

(c) The Secretariat of the Unions and of the Organization shall be taken over by a joint body, the International Bureau for the Protection of Intellectual Property, which is a continuation of BIRPI. The Director General of that Bureau shall be invested with new rights enabling him to represent the Organization and the Unions at the international level.

(d) In accordance with its activities, the International Bureau shall be placed under the authority of the organs of the Unions and those of the Organization. Nevertheless, it shall be the General Assembly of the member States of the Unions that shall exercise the necessary supervision.

II. Terms of Reference and Work of Main Committee V

5. The execution of the reform necessitates alteration of the administrative provisions and final clauses of all the Conventions and Agreements in force. That task was entrusted to Main Committee IV. In addition it was necessary to prepare a Convention to establish and make rules for the new Organization (WIPO Convention). That duty was entrusted to Main Committee V.

6. Main Committee V met under the chairmanship of Mr. Braderman (United States) on June 19, 20, 21, 23 and 28 and on July 4, 1967. It held a joint meeting with Main Committee IV on July 5, 1967 under the chairmanship of Mr. Savignon (France) to settle a number of matters common to the two Committees. Main Committee V also set up a Working Group to study the conditions of admission to WIPO; this Working Group met on June 21, 22 and 27, 1967, under the chairmanship of Mr. Bogsch (BIRPI). Lastly, the Drafting Committee of Main Committee V finalized the texts at its meetings of June 27, 28, 29 and July 3, 1967, under the chairmanship of Mr. Kellberg (Sweden).

III. Establishment of the new Organization

7. Main Committee V initially devoted its general discussions to the problem of the establishment of the Organization.

8. The Delegations of France and Italy noted that, in the view of their Governments, the modernization that was needed could be achieved within the framework of the Unions without the need to set up a complicated and costly new Organization; nevertheless, they would not oppose the setting up of the Organization since it seemed to be desired by the great majority of the member States of the Unions.

9. Other Delegations, namely those of Bulgaria, Cuba, Czechoslovakia, Germany (Fed. Rep.), Hungary, Ireland, Israel, Japan, the Netherlands, the Union of Soviet Socialist Republics and the United States, said that their Governments welcomed the establishment of the new Organization which would, in particular, make possible a better coordination of the activity of the Unions and constitute a more efficient contribution to the economic prosperity of the developing countries by assisting them to create a system for the protection of intellectual property.

10. The representatives of several intergovernmental organizations spoke in the same sense. The representative of UNESCO, however, noted that, within the framework of its duty of promoting education, science and culture, UNESCO had to deal with copyright at a universal level and therefore had responsibilities that it could not renounce.

11. As it was therefore apparent that there was no opposition or fundamental objection to the establishment of the new Organization, Main Committee V was able to proceed to consideration of the various points of the draft Convention submitted to the Conference of Stockholm.

IV. The Name of the Organization

12. The Committee was called upon to decide whether the Organization should be called "International Organization" or "World Organization". It preferred the latter term. An international organization can, in fact, have a restricted geographical area. The new Organization has a universal calling, and the Unions already comprise the majority of the countries of the world and extend over the five continents. It did not therefore seem over pretentious to choose as its name "World Intellectual Property Organization" (WIPO).

V. Objectives of the Organization

13. The preamble and Article 3 of the Convention set out the objectives of WIPO and thereby determine the scope of its activities at the international level. They distinguish clearly between the two essential objectives of the Organization.

14. The first of these objectives, the definition of which is based on a proposal of the Italian Delegation, is to promote the protection of intellectual property throughout the world in order to encourage creative activity in all countries. The expression "intellectual proper is to be understood in its widest sense. As defined in Article 2(viii), it includes all the rights relating to intellectual activity in the industrial, scientific, literary and artistic fields, to which the commercial field may be added. The same provision contains a specimen list of the most important items to which these rights may relate; it is worth noting that one item is included which is not yet protected as intellectual property in the majority of countries: scientific discoveries, which obviously include medical discoveries.

15. Under the terms of Article 3(i), WIPO can cooperate, where appropriate, with other international organizations in order to achieve its first objective.

16. The second objective of the Organization is to ensure administrativ cooperation among the Unions, without in any way derogating from their independence.

17. Finally, on the proposal of the Delegation of Rumania, it was sought to express the idea that, in pursuing these objectives, the Contracting Parties were also inspired by a loftier purpose, namely by the desire to contribute to better understanding and cooperation among States. The Preamble of the Convention opens with the expression of that noble purpose.

VI. Functions of the Organization

18. In general, the Organization is to take all appropriate action to achieve its objectives. Its essential functions are, however, listed in Article 4.

19. The first task of WIPO is to improve the protection of intellectual property throughout the world, particularly by encouraging the conclusio of international agreements for that purpose (Article 4(iv)) and by contributing to the harmonization of national legislations (Article 4(i)).

20. Furthermore, the Organization is to carry out various administrativ tasks. It will perform the administrative tasks of the existing Unions (Article 4(ii)) and, if so requested by competent bodies, it can agree

to assume, either alone or in cooperation with other international organizations, the administration required for the implementation of any other treaty, convention or arrangement falling within the field of intellectual property (Article 4(iii)). It will itself maintain services facilitating the international protection of intellectual property at the administrative level, in particular international registration services (Article 4(vii)).

21. As BIRPI has done hitherto, the Organization is to serve as a center of documentation for intellectual property, and to carry out and promote legal and economic studies in this field (Article 4(vi)).

22. Last but not least, it will offer its cooperation to States requesting legal-technical assistance (Article 4(v)). This latter term gave rise to some discussion in Main Committee V. It was suggested that the term should be replaced by the expression "technical assistance," which is normally used to describe the aid granted to developing countries. It was pointed out, however, that what was involved was legal assistance, either as to legislation or administration, as WIPO is clearly not in a position to provide any other kind of aid to these countries. Such legal-technical assistance may consist, for instance, in the organization of seminars and courses, the supply of experts, the drafting of model laws for the developing countries, etc.

VII. Membership of the Organization

23. The BIRPI draft distinguished between "Full Members" and "Associate Members," depending upon whether the States in question were members of a Union or not. In order to avoid any appearance of discrimination, Main Committee V abandoned this terminology, on the proposal of the Delegations of Czechoslovakia, Hungary, the Netherlands, Poland and the USSR.

24. In regard to the conditions for admission, BIRPI had submitted a proposal to the Conference, while also mentioning other proposals originating from the 1965 Committee of Experts and the Italian Delegation to that Committee. Committee V also had before it a proposal by the United Kingdom Delegation, and the Delegation of Czechoslovakia took up, in a proposal, one of the alternatives put forward by BIRPI.

25. The question gave rise to a lengthy debate, in which two main opposing theories were put forward. Some delegations held that it was essential to avoid all discrimination, keep entirely to the principle of universality and hence admit into the Organization any State applying for admission and prepared to accept the provisions of the Convention. Other delegations, while accepting the principle of universality, nevertheless thought it necessary to know whether the applicant was a State and considered that the question was essentially a political one, of which a technical organization should not take cognizance; they therefore thought that it could only accept States recognized as such by international political organizations such as the United Nations and its Specialized Agencies.

26. Finally, the Committee accepted the compromise suggested to it by the Working Group which had been set up to consider the matter; the Working Group returned essentially to the proposal of BIRPI. Under the terms of this text, which constitutes Article 5 of the Convention, any State which is a member of a Union may become a party to the Organization, and the same applies to any other State if it is invited by the General Assembly of WIPO or if it is a member of any of the international organizations indicated in Article 5(2)(i).

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VIII. The Organs in General

27. The BIRPI Draft made provision for four different organs: the General Assembly of the Member States of the Organization and of a Union, the Conference, composed of all the Member States of the WIPO, the Coordination Committee and, finally, the International Bureau of Intellectual Property. Certain objections have been encountered only as regards the establishment of the Conference.

28. The Delegations of Czechoslovakia, Hungary, the Netherlands, Poland and the USSR, have in fact proposed that the organ called the "Conference" should not be established. In their opinion, it would be simpler and more equitable if States outside the Union were admitted to the General Assembly, but solely in an advisory capacity as regards matters which concerned only the Member States of a Union.

29. Other delegations opposed that proposal. They pointed out, in particular, that the two purposes of the Organization should be kept quite distinct from each other, and that each should be within the competence of a special organ: the General Assembly for administrative cooperation between the Unions and the supervision of the International Bureau of Intellectual Property, and the Conference for the promotion of intellectual property in the world, and in particular, for technico-legal assistance.

30. Finally, the Committee decided in favor of the establishment of the Conference, considering that that measure constituted an important element of a general compromise, from which it would be difficult for certain delegations to depart.

IX. The General Assembly

1. Powers and Functions

30bis. Without prejudice to the powers and duties of the Conference, the General Assembly is the supreme organ of the Organization.

31. In particular, it appoints the Director General upon the nomination of the Coordination Committee (Article 6(2)(i)). If it does not select the candidate proposed by the Coordination Committee, the latter has to nominate another candidate until a final selection is made (Article 8(3)(v)).

32. The General Assembly examines and approves the reports and activities of the Coordination Committee as well as the reports of the Director General concerning the Organization; it gives all necessary instructions to both one and the other (Article 6(2)(ii) and (iii)). These latter provisions, added upon the proposal of the Delegation of the Federal Republic of Germany, are intended to indicate more specifically the capacity of the General Assembly as the supreme organ.

33. As regards financial matters, Main Committee V has supplem by two new provisions the statement of the duties of the General Assembly. Upon the joint proposal of France, the Federal Repu of Germany, Hungary, Italy, the United Kingdom, the United State and the USSR, a provision has been included, under the terms of which the General Assembly adopts the triennial budget of expens common to the Unions (Article 6(2)(iv)). Further, the Committe has adopted a proposal by the Delegation of Austria expressly ruling that the General Assembly shall be competent to adopt the financial regulations of the Organization (Article 6(2)(vi)).

34. It is also the duty of the General Assembly to undertake to ensure the administration of the international agreements and to approve the arrangements made to that end by the Director Genera (Article 6(2)(v)).

35. The General Assembly shall admit to its meetings, as obser States which are not members of any of the Unions (Article 6(5)) It shall, however, have the right to admit to those meetings in a capacity also other States and Organizations (Article 6(2)(ix)

36. Finally, Article 6(2)(vii) confers on the General Assembly the authority to determine the working languages of the Secretar This point gave rise to discussion. Under the terms of the BIR Draft, the General Assembly should decide which "in addition to French and English, the working languages of the Secretariat" sh be. The Delegation of Spain has proposed the alternative wordi "determine the working languages of the Secretariat having regar to the practice of the United Nations." This latter text was adopted by the Committee. It is obvious, however, that the omission of any specific mention of French and English does not mean that it is intended to abandon either of those languages as working languages. On the other hand, the reference to the practice of the United Nations must not be understood as involvi the automatic adoption of the working languages of that Organiza The General Assembly shall determine the needs of WIPO and its financial possibilities. Only in cases where the use of a thi or fourth working language is necessary, and the expenses thereb incurred are covered, shall the General Assembly make them work languages of the Secretariat. These new languages may be intr duced gradually as required. Meanwhile, as has been the case hitherto, the Secretariat will prepare documents and arrange fo interpretation into languages other than French and English in special cases.

2. Constitution

37. The General Assembly consists of the States members of the Unions which belong to the Organization (Article 6(1)(a)). Each State has one vote, irrespective of the number of Unions to which it belongs. (Article 6(3)(a)).

38. Each State which is a member of the General Assembly is represented by one delegation, which shall consist of one delegate, who may be assisted by alternate delegates, advisors, and experts (Article 6(1)(b)). On the proposal of the United Kingdom Delegation, it was provided that the expenses of representatives would be borne by the Governments which appointed them (Article 6(1)(c)). This means that such expenses are not borne by WIPO. The question whether they are effectively borne by the Government concerned is an internal matter which does not affect the Organization.

39. The Delegation of Madagascar proposed, as it had done with reference to the Assemblies of the Union, that, if several countries were grouped in a single industrial property office, they should be able to be represented by a single delegation which would then have as many votes as the number of States taking part in that office. A compromise solution was found in respect of the Assembly of the Paris Union. Main Committee V, however, thought that the existence of a common industrial property office had a much more distant bearing on WIPO and that a special provision was not justified in this connection. It accordingly decided that in the General Assembly a delegate could represent only one State and vote only on its behalf (Article 6(3)(a)).

3. Sessions, quorum and majority

40. The General Assembly meets every third calendar year in ordinary session; it is convened by the Director General (Article 6(4)(a)).

41. It also meets in extraordinary session at the request of one-fourth of its members or at the request of the Coordination Committee, made to the Director General, who then convenes the General Assembly (Article 6(4)(v)). It may not be convened in extraordinary session by the Director General on his own initiative.

42. The BIRPI proposals provided for a quorum of one-third of the members. On the proposal of the Delegation of Czechoslovakia, Main Committee V raised the quorum to one-half (Article 6(3)(b)), as Main Committee IV had done for the Assemblies of the Unions. The quorum is attained when the delegations recorded at the session represent at least one-half of the member States, whether present at each vote or not.

43. In addition, for the case where the required quorum is not attained, but at least one-third of the member States are represented, the solution adopted was identical with that adopted by Main Committee IV in respect of the Assemblies of the Unions: the General Assembly's discussions are deemed to be valid and it can (continued)/...

take provisional decisions, by the required majority; these decisions will then be submitted in writing to the member States not represented, which will have a period of three months in which to express an opinion; if the new votes cast within this period make up the required quorum, and provided that the necessary majority is not lost as a result of this supplementary vote, the decision shall be final (Article 6(3)(c)). This rule should, moreover, be completed by the Rules of Procedure of the General Assembly, which will specify, for example, the form in which provisional decisions will be submitted to the member States not represented, the procedure for written voting and the points marking the beginning and end of the three months' period.

44. As regards the required majority, the BIRPI proposals provided in principle for a simple majority, and for certain decisions majorities of two-thirds, three-fourths or nine-tenths. Adopting a proposal made by the Delegation of Czechoslovakia, Main Committee V raised the majority normally required to two-thirds of the votes expressed (Article 6(3)(d)) as Main Committee IV had done for the Assemblies of the Unions. In making this amendment it took account of the great importance of the decisions devolving on the General Assembly. Accordingly, the draft proposals providing for a majority of two-thirds in certain cases could be deleted. On the other hand, those instituting even higher majorities were maintained: agreement to assume, or participate in, the administration of any international agreement, in accordance with Article 4(iii), requires a majority of three-fourths of the votes expressed (Article 6(3)(e)), and the required majority is nine-tenths of the votes expressed if it is a question of approving an agreement with the United Nations under Articles57 and 63 of the Charter of the United Nations (Article 6(3)(f)).

45. Lastly, some decisions, although within the competence of the General Assembly, are highly important for the Unions themselves: these include the transfer of the headquarters of the Organization, the appointment of the Director General and the administration of new international agreements. In these cases the required majority must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union (Article 6(3)(g)). In order to be valid, such decisions must accordingly be taken with the required quorum and majority in each of the three Assemblies.

4. Rules of Procedure

46. The Convention governs only broad lines. Details, in particular the procedure for discussions in the General Assembly, will be the subject of the Rules of Procedure to be adopted by that Assembly.

X. Conference

1. Powers and functions

47. In general, the Conference, which consists of all States members of the Organization, exercizes the functions allocated to it by the Convention (Article 7(2)(vi)). The main functions are listed in Article 7(2)(i) to (v) and may be divided into five groups.

48. In the first place, the Conference constitutes a forum for exchanges of views in the field of intellectual property between all States members of the Organization, whether or not they are party to a Union. In this context, the Conference can in particular make recommendations (Article 7(2)(i)). The BIRPI proposal provided that it could also adopt resolutions; but, on the proposal of the Delegation of the United States, this provision was deleted, with the idea that the role of the Conference would be indicated better by the single word "recommendations." Moreover, a text submitted by the Delegation of South Africa to the effect that discussions should relate to "legal-technical questions of general interest in the field of intellectual property" was considered too restrictive by the Committee.

49. Secondly, the Conference is the supreme organ for everything relating to legal-technical assistance. It accordingly establishes the triennial program of assistance to developing countries (Article 7(2)(iii)).

50. In order to perform these tasks, the Conference has a budget which it establishes every three years (Article 7(2)(ii)). The budget allocations are used to finance the program of legal-technical assistance and to cover the other expenses of the Conference.

51. The Conference is also competent to adopt amendments to the Convention, as provided in Article 17 (Article 7(2)(iv)).

51bis. Lastly, like the General Assembly, it can determine which States and organizations will be admitted to its meetings as observers (Article 7(2)(v)).

2. Constitution

52. The Conference consists of all States members of the Organization, whether they are members of a Union or not (Article 7(1)(a)), and each has one vote (Article 7(3)(a)).

53. There is, however, one case in which, on the joint proposal of France, Germany (Fed. Rep.), Hungary, Italy, United Kingdom, United States and USSR, only States not members of any of the Unions are entitled to vote, namely when fixing the amounts of their contributions (Article 7(3)(d)).

The quorum and higher majority required for the Conference must in this case be attained in this restricted assembly.

54. As in the case of the Assembly, each member State is represented in the Conference by a delegation, the expenses of which are normally borne by that State and are in no case borne by WIPO (Article 7(1)(b) and (c)).

55. The Delegation of Madagascar submitted the same proposal in respect of the Conference as it had done in respect of the General Assembly. But this proposal was again rejected, resulting in the maintenance of the rule that one delegate can represent only one State (Article 7(3)(f)).

3. Sessions, quorum and majority

56. The Conference meets every third calendar year in ordinary session, upon convocation by the Director General. For reasons of economy, these meetings will be held at the same time and place as the General Assembly (Article 7(4)(a)).

57. The Conference also meets in extraordinary session. But its convocation by the Director General is subject to stricter conditions than the convocation of the General Assembly: it must be requested by the majority of Member States (Article 7(4)(b)).

58. The BIRPI proposals provided that, if the agenda included questions exclusively concerning industrial property or copyright, the Conference would meet as "Industrial Property Conference" or "Copyright Conference." In this way, it was desired to mark the distinction between the two main fields of intellectual property. The Committee considered, however, that this distinction was of little practical interest, that it might give rise to confusion and decided to delete it, on the proposal of the United Kingdom Delegation, while considering that the matter might be included in the Rules of Procedure of the Conference.

59. According to the BIRPI proposals, it was necessary, in order to attain a quorum, for one-third of the Union countries and one-third of the non-Union countries to be represented. The Committee rejected this distinction: it will accordingly be sufficient for one-third of all States members of the Organization to be represented (Article 7(3)(b)). Moreover, as the quorum had thus been maintained at a relatively low level, it was not necessary to provide for subsequent written consultation, should it not be attained, as had been done for the General Assembly.

60. As in the case of the General Assembly, the required majority was raised to two-thirds of the votes expressed (Article 7(3)(c)). It was therefore possible to delete the special provisions which, in the BIRPI proposals, required a higher majority of two-thirds for certain decisions. The adoption of amendments to the Convention is, however, subject to the triple vote required by Article 17.

4. Rules of Procedure

61. Like the General Assembly, the Conference will adopt Rules of Procedure to determine points of detail, in particular procedural points not governed by the Convention (Article 7(5)).

XI. Coordination Committee

1. Powers and functions

62. The Coordination Committee is both an advisory organ on questions of general interest and the executive organ of the General Assembly and the Conference. In addition, it has some functions of its own. Its most important tasks are listed in Article 8(3) which, like the provisions relating to the General Assembly and the Conference, contains a general clause under which the Coordination Committee performs such other functions as are allocated to it under the Convention (see, for example, Article 11(6), (7) and (8)(c)).

63. The first of the functions listed in Article 8(3) is advisory: the Coordination Committee gives advice to the various organs of the Unions and the Organization on matters of common interest to several Unions or to one or more Unions and the Organization itself, in particular regarding the budget of expenses common to the Unions. To the list of organs receiving such advice, the Committee added the Director General, on the proposal of the Delegation of the Federal Republic of Germany.

64. The Coordination Committee also proposes the draft agenda of the General Assembly and of the Conference, as well as the draft program and budget of the Conference (Article 8(3)(ii) and (iii)).

65. Like the Executive Committees of the Unions, the Coordination Committee is responsible for approving the annual budget and program, on the basis of the triennial programs and budgets drawn up by the General Assembly and the Conference (Article 8(3)(iv)). Details will be established in the financial regulations of the Organization.

66. Lastly, under Article 8(3)(v) and (vi) the Coordination Committee has certain functions in the event of a vacancy in the post of Director General or if the term of office of the Director General expires.

2. Constitution

67. The Coordination Committee consists of the States party to this Convention which are members of the Executive Committee of the Paris Union or the Executive Committee of the Berne Union or both. However, in order to ensure the maintenance of the desired equilibrium between the two Unions, this rule

applies as such only in so far as each of the two Executive Committees not consist of more than one-fourth of the number of the countries memb of the Union which elected them (Article 8(1)(a)). In addition, the co on the territory of which the Organization has its headquarters is an e officio member of the Coordination Committee as long as it is under the obligation to grant advances in accordance with Article 11(9)(a).

68. In order not to complicate the constitution of the Coordination Committee excessively, the other Unions could not be given direct repre tion on that Committee. The interests of these Unions can, however, be safeguarded by their members on the Executive Committees of the Paris U or the Berne Union (Article 8(2)). The Paris Convention (Article 14(4)) the Berne Convention (Article 23(4)) prescribe that in electing the mem of the Executive Committees, the Assemblies should have due regard to t need for countries party to the Special Agreements to be among the coun constituting the Executive Committee. On the other hand, if the Organiz subsequently agrees to administer international agreements unconnected the Paris and Berne Unions, it will be necessary, where appropriate, to special provision for the representation on the Coordination Committee countries party to these agreements.

69. When the Coordination Committee examines questions within the comp of the Conference, it is joined by one-fourth of the States not members any of the Unions, who are elected by the Conference at each ordinary s (Article 8(1)(c)). According to the BIRPI proposals, this was to occur the Coordination Committee examined questions "of direct interest to th Conference." The Committee considered that this wording was too vague a it more specific by saying that the Coordination Committee would be joi the representatives of non-Union countries when it considers either mat direct interest to the program or budget of the Conference and its agen proposals for the amendment of the Convention which would affect the ri obligations of non-Union members of the Organization.

70. The representation of member States on the Coordination Committee governed in the same way as for the General Assembly and the Conference (Article 8(1)(b) and (d), (5)(a). In particular, each Member State has one vote, even if it belongs to the two Executive Committees which cons the Coordination Committee.

Sessions, quorum and majority

71. The Coordination Committee meets once every year in ordinary sessio convocation by the Director General (Article 8(4)(a)). As in the case c General Assembly and the Conference, the Committee added to this rule a vision that the Coordination Committee could meet in extraordinary sess The Director General can convene such sessions on his own initiative, a obliged to do so at the request of the Chairman of the Coordination Com or at least one-fourth of its members (Article 8(4)(b)).

72. A quorum is constituted when at least one-half of all member States the Committee are validly represented at a session (Article 8(5)(b)).

73. The Coordination Committee is to express its opinions and make its decisions by a simple majority of the votes cast (Article 8, paragraph (6)(a)). However, so that the independence of the Unions should be completely safeguarded, the Executive Committee of the Paris Union and that of the Berne Union will have something in the nature of a right of veto, the procedure for which is established in Article 8, paragraph (6)(b).

74. Any State Member of the Organization, which is not a member of the Coordination Committee, may be represented at the meetings of the Committee by observers. In accordance with custom, those observers may take part in the debates but will not have the right to vote (Article 8, paragraph (7)).

4. Rules of Procedure

75. Like the General Assembly and the Conference, the Coordination Committee is to settle various points of detail, especially concerning procedure, in rules of procedure which it will establish itself (Article 8, paragraph (8)).

XII. The International Bureau of Intellectual Property

76. The International Bureau of Intellectual Property is to be the Secretariat of WIPO (Article 9, paragraph (1)).

77. It will be directed by a Director General, who will be the chief executive of the Organization (Article 9, paragraph (2) and paragraph (4)(a)). The Director General will be appointed by the General Assembly under the conditions laid down by Article 6, paragraphs (2)(i) and (3)(g) and by Article 8, paragraph (3)(v). It will not be necessary for the Director General to be a national of a State Member of one or more Unions or of the Organization. In that respect, the Delegation of France noted, without submitting an amendment, that its Government would have liked to have seen acceptance of the principle that the Director General should be a national of a State Member of the principal Unions of Paris and Berne.

78. The Director General is to be empowered to represent the Organization in its relations with third parties (Article 9, paragraph (4)(b)). He is to conform to the instructions of the General Assembly, to which he shall report; he will prepare the draft budgets and programs and periodical reports on activities and will participate in all meetings of the organs of the Organization or of any other committee or working group, of which he or a staff member designated by him will be the secretary (Article 9, paragraph (4) (c) and paragraphs (5) and (6)).

It goes without saying that all these functions need not necessarily be carried out by the Director General in person; if, for example, he is unable to attend he will be replaced by the deputy designated by him.

79. The Director General will be assisted by two or more Deputy Directors General, whom he shall appoint himself after his choice has been approved by the Coordination Committee (Article 9, paragraphs (2) and (7)).

80. Furthermore, the Director General will appoint the necessary staff. The conditions of employment will be fixed by the staff regulations to be approved by the Coordination Committee (Article 9, paragraph (7)).

81. In relation to the recruitment, rights and duties of the executives of the Organization, the Convention contains provisions similar to those to be found in Articles 100 and 101, paragraph (3), of the United Nations Charter (Article 9(7) and (8)).

XIII. The Headquarters of the Organization

82. Under Article 10 of the Convention, the headquarters of the Organization will be at Geneva. The General Assembly can decide to transfer it to another place. However, for the two-thirds majority needed for this decision to be valid, it must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union (Article 6, paragraph (3)(d) and (g)). Those provisions did not give rise to any discussion and were unanimously adopted.

XIV. Finances

1. Budgets

83. Each Union will have its own budget. With regard to the Organization the BIRPI draft provided that it should also have a separate budget. Nevertheless, on a proposal of the Delegations of France, Germany (Fed. Rep. Hungary, Italy, the Soviet Union, the United Kingdom and the United States Main Committee V decided that the Organization would have two separate budgets; the budget of expenses common to the Unions, and the budget of the Conference (Article 11, paragraph (1)).

84. The budget of expenses common to the Unions, which is to be adopted by the General Assembly (Article 6, paragraph (2)(iv)) will include provision for expenses affecting several Unions. It will be financed from the contributions of the Unions, charges due for certain services performed by the International Bureau (Article 11, paragraph (2)(i) and (ii)) and other less important means indicated in Article 11, paragraph (2)(iii) to (v).

85. The budget of the Conference will include provision only for the expenses occasioned by the sessions of the Conference and by legal-technical assistance (Article 11, paragraph (3)(a)). The expenses appearing in the budget of the Conference will be covered by the contributions of members outside the Unions fixed in accordance with Article 11, paragraph (4)(a), of theConvention, by the voluntary contributions of the Unions, by sums received by the International Bureau for services rendered in the field of legal-technical assistance, and also by possible gifts, bequests, and subventions (Article 11, paragraph (3)(b)(i) to (iv)).

85bis. It may happen that a budget cannot be approved before the beginning of a new financial period. In that case, the budget will be at the same level as that of the previous year, in accordance with the procedure which will be laid down in the financial regulations (Article 11, paragraph (4)(e)).

2. Contributions

86. In order to fix the contributions of members outside the Unions, recourse is to be had to the traditional system of classes, which has been retained by the Unions. It does not, however, seem necessary for contributions to the budget of the Conference to be as differentiated as contributions to the budgets of the Unions, so that three classes will be sufficient (Article 11, paragraph (4)(a)).

87. In other respects, the contributions to the budget of the Conference are to be calculated in accordance with the same provisions as the contributions to the budgets of the Unions. Contrary to what has been the case up to the present, the contributions will be due from the first of January of the financial period for which they are due and not only in the course of the following year (Article 11, paragraph (4)(d)). It may be thought that in this way the Organization will have appreciably more liquid assets than BIRPI has had hitherto.

88. Arrears in the payment of financial contributions due to the Conference or to one of the Unions can involve loss of the right to vote, in accordance with the provisions of Article 11, paragraph (5).

3. Other provisions

89. Like the Unions, the Organization will have a working capital fund which will be formed of payments by the Unions and by member States outside the Unions. The payments of the latter will be proportional to their annual contributions. If the fund becomes insufficient, it should be increased (Article 11(8)).

89bis. As the Organization has two budgets, one of which is with the scope of the General Assembly while the other is the responsi of the Conference, it may be wondered which of these two organs w be competent for matters relating to the working capital fund, an in particular for deciding to increase it if it is considered in- sufficient. This point will have to be settled by the financial regulations.

90. As contributions are payable at the beginning of the financi period and the Organization has a working capital fund, it may be assumed that in normal conditions it should have sufficient liqui funds. But it might run short in extraordinary circumstances. this reason it was provided that, under the headquarters agreement State on whose territory the Organization has its headquarters sh undertake to make advances to the Organization if the working capi fund were insufficient. On that point, the WIPO Convention conta provisions similar to those of the other Conventions (Article 11(

91. The auditing of the accounts is provided for in the same manr as for the Unions (Article 11(10)).

91bis. The Paris and Berne Conventions provide that the Assembly each Union will approve the final accounts. There is no similar provision in the WIPO Convention. This point will therefore have to be dealt with in the financial regulations.

92. In addition to the few points mentioned above, the financial regulations to be drawn up by the General Asssmbly in accordance with Article 6(2)(vi) will settle the details of all administrativ questions relating to the finances of the Organization.

XV. Legal Capacity, Privileges and Immunities

. To attain its objectives and carry out its functions, the Organi-
ion must naturally enjoy, on the territory of each Member State,
ch legal capacity as may be necessary in accordance with the pro-
dures laid down by the laws of that State (Article 12(1)). On
is point the Delegations of the United Kingdom, the Netherlands and
stralia stated that in their view the expression "territory of each
mber State" referred, in those States in which such a distinction
s made, to the metropolitan territory and any dependent territory
which any of the Conventions may have been declared to apply.

. The Organization will have to conclude a headquarters agreement
ch the Swiss Confederation and, should the headquarters be transferred
sewhere, with the new headquarters country (Article 12(2)). These
reements will contain the usual clauses concerning the privileges
d immunities guaranteed to the Organization, its officials and
presentatives of Member States. In addition, they will have to
clude the financial clauses provided for in Article 11(9) and in
e parallel provisions of the Conventions of the Unions.

. Various international agreements will make general provision to
sure that the Organization enjoys, on the territory of each Member
tate, such privileges and immunities as may be necessary for the
lfilment of its purposes and that the same will apply to represen-
atives of Member States and to the officials of the Organization
the extent that may be necessary to enable them to exercise their
nctions in entire independence (see, in particular, Article 105(1)
d (2) of the United Nations Charter). The Delegation of
zechoslovakia proposed that a provision of this nature should be
serted in the WIPO Convention. Nevertheless, the Committee
nsidered that such a general clause was unnecessary for the
rganization in the immediate future and that it would be sufficient
it could, if necessary, secure the required privileges and
munities by means of bilateral or multilateral agreements.
is is provided for in Article 12(3).

. Headquarters agreements and bilateral and multilateral agree-
nts concerning privileges and immunities will be negotiated by
e Director General, who will be able to take the initiative freely
such negotiation. On the other hand, it was laid down, on the
roposal of the Delegations of France and Switzerland, that he will
ly be able to conclude them, that is to say sign them, after they
ve been approved by the Coordination Committee (Article 12(4)).

XVI. Relations with other Organizations

97. In order to attain its objectives and exercise its functions, WIPO will no doubt have to cooperate with other international organizations. When general working agreements have to be concluded with such organizations, the Director General may take the initiative in negotiating them, but he will not be able to conclude them until he has secured the approval of the Coordination Committee (Article 13(1)). On the other hand, in the case of agreements concerning cooperation in particular cases (for instance, to provide specific assistance to a given State), special approval by the Coordination Committee will not be required. But such actions will generally be mentioned in the Organization's program and, if they have financial implications, in the budget, so that the General Assembly, the Conference or at all events the Coordination Committee, will have an opportunity to take cognizance of them.

98. Article 13(1) does not, of course, apply to any agreement which might be concluded with the United Nations under the provisions of Articles 57 and 63 of the United Nations Charter. It will be the prerogative of the General Assembly to approve such an agreement in accordance with the procedure indicated in Article 6(3)(f). Similarly Article 13(1) does not in any way alter Article 6(3)(e), dealing with the approval of measures concerning the administration of international agreements.

99. The arrangements which the Organization may make for consultation and cooperation with organizations other than the intergovernmental organizations, are governed by Article 13(2), which gave rise to no discussion.

XVII. Accession to the Convention

100. Those States which can become party to the Convention in accordance with Article 5 will accede to it by completing the formalities which are usual in international public law: signature without reservations as to ratification, signature subject to ratification and deposit of an instrument of ratification, or deposit of an instrument of accession (Article 14(1)).

101. It would not be appropriate for a State member of a Union to be able to accede to the WIPO Convention without having ratified the administrative provisions of the Stockholm Act of the Paris Convention or the Berne Convention, or without having acceded thereto. Moreover, this is in the interest of the States themselves; for instance, a State member of a Union which had only acceded to the WIPO Convention would be unable to be a member of the Coordination Committee because it could not be a member of the Executive Committee of the Paris or the Berne Union. For this reason, Article 14(b) requires that, when

ceeding to the WIPO Convention, States members of a Union must simultaneously accept or have already accepted the obligations of the administrative provisions of the Stockholm Act of the Paris Convention, or the Berne Convention. If they are parties to both Conventions, it is sufficient for them to have ratified the administrative provisions of the Stockholm Act of one of them, or to have acceded thereto.

02. WIPO being a modern organization provided with organs capable of representing it internationally, the instruments of ratification and accession may be deposited with the Director General, as provided in Article 14(3).

XVIII. Entry into force of the Convention

03. As is customary, the Convention will enter into force when a certain number of States have ratified it or acceded to it. For this purpose, only ratifications or accessions by States members of a Union will be counted. The Convention will enter into force when ten States parties to the Paris Convention and seven States parties to the Berne Convention have completed one or other of these formalities (Article 15(1)). This number corresponds to the number required for the administrative provisions of the Stockholm Act of the Paris and Berne Conventions. It may therefore be considered that all these texts will enter into force at approximately the same time.

04. Believing that the WIPO Convention would involve substantial changes of structure and that it should only enter into force after a substantial number of States have ratified or acceded to it, and also in order to avoid an excessively prolonged coexistence of two very different administrative systems, the Delegation of France proposed that the entry into force should be made dependent upon thirty ratifications or accessions by countries party to the Paris Convention, and twenty ratifications or accessions by countries party to the Berne Convention. But this proposal was rejected by the Committee, which considered that the Convention should enter into force as early as possible. In this way the entry into force of the WIPO Convention will coincide with that of the administrative provisions of the Paris Convention or the Berne Convention which will come into force last.

XIX. Reservations

105. Article 17 states with admirable succinctness that "no reservations to this Convention are permitted." This text needs no lengthy comments: a State's ratification of or accession to the Convention implies acceptance of all its provisions.

105bis. The Delegation of the USSR observed, however, that, while it accepted this provision, it did not wish it to serve as a precedent for other Conventions.

XX. Amendments to the Convention

106. Hitherto, the Berne and Paris Conventions, and the Special Agreements could be amended only by diplomatic conferences of revisi This rule has been maintained in respect of their substantive provis On the other hand, like the Charter of the United Nations (Article 1 et seq.) and other Conventions constituting international organizations, the WIPO Convention can be revised by the Conference itself. A strict procedure should however guarantee that amendments are thoroughly studied and accepted by the great majority of member Sta

107. In the first place, the preparation of amendments is governed by Article 17(1). Amendment proposals, which may be initiated by any member State, by the Coordination Committee or by the Director General, will be communicated by the latter to the member States at least six months before being submitted to the Conference.

108. The adoption of amendments is governed by Article 17(2). Before being discussed by the Conference, the proposed amendments must be adopted by the Assemblies of the Paris and Berne Unions by a three-fourths majority. In the Conference the decision is taken by a simple majority of member States. Non-union countries take part in the vote only if the amendments are likely to affect their rights or obligations. It will be for the Conference, where appropriate, to determine whether this condition is fulfilled.

109. Lastly, entry into force is governed by Article 17(3). In this connection, it should be pointed out that once the required number of acceptances is received, the amendment is binding on all member States, except if it increases their financial obligation

XXI. Denunciation of the Convention

110. Any member State may denounce the WIPO Convention (Article 18(1)). If it is a Union country, it is not necessary for it also to leave the Union or Unions of which it is a member. It may therefore remain party to the Berne Convention, the Paris Convention, and the Special Agreements. In taking this decision, the majority of delegations held the view that the link between the Unions and the Organization was not so close that it was impossible to leave the latter without at the same time leaving the former.

111. Such a State may of course remain a member of all the organs of the Unions to which it belongs. But it cannot belong to the General Assembly, nor to the Conference nor to the Coordination Committee. If several States which are members of the Executive Committee of one of the principal Unions were in this situation, this would lead to disequilibrium in the membership of the Coordination Committee, but this risk is so slight that it can be disregarded.

112. Denunciation takes effect six months after the date on which the Director General has received the notification (Article 18(2)).

XXII. Notifications

113. Article 19 lists the notifications normally devolving on the Director General of an international organization. This list is not exhaustive. For instance, the Director General must also notify member States of the class chosen by any new non-Union member for its contributions and of any change in class.

XXIII. Settlement of disputes

114. The BIRPI proposals contained no provisions relating to the settlement of disputes. The Delegation of Japan proposed that the WIPO Convention should include a provision whereby any dispute between member States regarding the interpretation or application of the Convention should be referred in the last resort to the International Court of Justice, unless the States in question agreed on another method of settlement.

115. The Committee considered, however, that, as the WIPO Convention contained only administrative provisions, it was unlikely that any disputes would arise which would warrant intervention by the International Court of Justice. It was therefore considered preferable not to insert in the Convention any provision concerning the settlement of disputes.

XXIV. Final Provisions

116. Article 20 deals with those questions which normally form the subject of final provisions. It should be noted that the WIPO Convention is drawn up in the English, French, Russian and Spanish languages, the four texts being equally authentic (Article 20(1)(a)). In case of any discrepancy, therefore, it will be necessary to ascertain which text expresses the meaning of the Convention most accurately. In addition, official texts will be established by the Director General after consultation with the interested Governments, in various languages, amongst which the Committee included Portuguese on the proposal of the Delegation of Portugal (Article 20(2)).

117. The original copy of the Convention will be deposited with the Government of Sweden, but the certified true copies will be distributed by the Director General of the Organization, who will also register the Convention with the Secretariat of the United Nations (Article 20(1)(a), (3) and (4)).

XXV. Transitional Provisions

118. Article 25 distinguishes between several transitional periods. The first will be from the signing of the Convention until its entry into force. During that period various duties entrusted by the Convention to the Director General and the International Bureau will have to be carried out. For example, copies of the Convention will have to be distributed and translation into various languages arranged. As there will then be neither a Director General nor an International Bureau, those duties will be carried out by the Director and by BIRPI (Article 21, paragraph (1)).

119. The entry into force of the WIPO Convention will inaugurate a second transitional period, undoubtedly a long one, that will last until all the States members of the Unions have ratified this Convention or acceded thereto. During that period, the same office, with the same staff, will be the International Bureau of Intellectual Property, for the States parties to the WIPO Convention, and the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (BIRPI), for the others. Similarly, the Head of this Bureau will be the Director General for the former and the Director for the latter (Article 21, paragraph (3)).

120. The first five years of this second transitional period will themselves be a special transitional period for which Article 21, paragraph (2) contains special rules. During this five-year period, the States members of the Unions that are not yet parties to the WIPO Convention may, if they announce the intention by notification to the Director General, exercise the same rights as if they had ratified the WIPO Convention or acceded to it. They will thus become members of the General Assembly and of the Conference and can also become members of the Coordination Committee. On the other hand, they will not have any of the obligations issuing from the WIPO Convention.

121. Lastly, when all the States members of the Paris Union have become members of the Organization, the rights, obligations and property of the Bureau of that Union will devolve upon the international Bureau. The same will apply to the Berne Union when the same condition has been fulfilled in its case (Article 21, paragraph (4)). At that moment BIRPI will cease to exist, so that its rights and obligations will necessarily devolve on the International Bureau of Intellectual Property. A provision to this effect is of course already included in the Paris and Berne Conventions (Stockholm Act). It has seemed advisable, however, to repeat it in the WIPO Convention, so that the Organization shall expressly agree that its organ shall be invested with the rights and obligations of BIRPI.

XXVI. Conclusion

The Convention creating WIPO, which has been prepared with great care by the Swedish Government, BIRPI and various Committees of Experts, now appears to be in due and proper form. The functioning of the new Organization will perhaps need a certain period of adjustment. However, even if the legitimate desire to safeguard the independence of each Union has entailed the establishment of many organs, the Stockholm Conference has succeeded in clearly delimiting their respective fields of competence. Similarly, the financial machinery of the Organization seems perfectly adapted to requirements. Of course, it may be that practical problems which cannot be foreseen at present will arise. There is reason to hope, however, that the spirit of international cooperation which was so manifest in the Stockholm Conference will continue to prevail in the new Organization and enable all difficulties to be overcome. Thus animated, WIPO will achieve the noble purpose which has been assigned to it and give effective encouragement to creative activity, thereby contributing to the spiritual enrichment and the material well-being of mankind as a whole.

Stockholm, July 8, 1967

J. Voyame

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BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/274
Subject (Union): Paris
Original: French
Distribution: Paris Plenary 535

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

RECOMMENDATION CONCERNING A STUDY ON PRIORITY FEES

The text of the proposed recommendation, as unanimously approved by Main Committee IV, is reproduced on the back of this page.

RECOMMENDATION

concerning a Study on Priority Fees

The countries members of the Paris Union for the Protection of Industrial Property,

In a Conference assembled at Stockholm from June 12 to July 14, 1967,

RECOMMEND THAT:

The International Bureau study, in cooperation with committees of experts, the desirability and the feasibility of creating new sources of revenue for the Union, through the collection of a modest fee for each application filed with a national Administration whenever, in such application, the right of priority provided for in the Convention of the Union is claimed;

Should the study lead to positive results and should it show that the Paris Convention would require revision to introduce the scheme, concrete proposals be worked out for the Revision Conference of the Paris Union to be held at Vienna.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/275
Subject (Union): Paris
Original: French
Distribution: Conference of Plenipotentiaries of the Paris Union

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

DECISION ON THE CEILING OF CONTRIBUTIONS FOR THE PARIS UNION

1. The text of the proposed decision, as unanimously approved by Main Committee IV, is reproduced on the back of this page.

2. As pointed out in paragraphs 24 to 26 of document S/12, the body competent for making the decision is the Conference of Plenipotentiaries of the Paris Union convened by the Swiss Government.

3. The Swiss Government having agreed with the Swedish Government to hold, during the Conference of Stockholm, a Conference of Plenipotentiaries, it is proposed that the said Conference of Plenipotentiaries be presided over by a representative of the Swiss Governement, which has convened it.

DECISION

The countries members of the Paris Union for the Protection of Industrial Property,

In a Conference of Plenipotentiaries assembled at Stockholm on July 14, 1967,

Unanimously decide

That the maximum total amount of the ordinary yearly contributions of the member countries shall be the following:

- for 1968: 1,200,000 Swiss francs
- for 1969: 1,400,000 Swiss francs
- for 1970: 1,600,000 Swiss francs

unless new decisions are made, or enter into force, in the meantime.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/276
Subject (Union): Berne
Original: French
Distribution: Berne Plenary

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

DECISION ON THE CEILING OF CONTRIBUTIONS

FOR THE BERNE UNION

The text of the proposed decision, as unanimously approved by Main Committee IV, is reproduced on the back of this page.

DECISION

The countries members of the Berne Union for the Protection of Literary and Artistic Works,

In a Revision Conference assembled at Stockholm from June 12 to July 14, 1967,

Unanimously decide

That the maximum total amount of the yearly contributions of the member countries shall be the following:

- for 1968: 800,000 Swiss francs
- for 1969: 900,000 Swiss francs
  for 1970: 1,000,000 Swiss francs

unless new decisions are made, or enter into force, in the meantime.

BIRPI
) INTERNATIONAL BUREAUX
FOR THE PROTECTION
INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/277
Subject (Union): Paris
Original: French
Distribution: Paris Plenary

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

STOCKHOLM ACT OF THE PARIS CONVENTION

The French version of this document contains a copy of the text of the Stockholm Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 28(1)(a) of the proposed Stockholm Act, that Act will be signed in French only.

An official English text will be established after the Stockholm Conference (see Article 28(1)(b) of the proposed Stockholm Act).

As far as Article 4-I is concerned, reference is made to document S/209, and as far as Articles 13 to 30 are concerned, reference is made to documents S/251-S/252 and the corresponding provisions in the Berne Convention (document S/278). The English texts appearing in those documents will doubtless constitute a solid basis for the preparation of the official English text.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/278
Subject (Union): Berne
Original:
Distribution: Plenary of the Berne Union

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

STOCKHOLM ACT OF THE BERNE CONVENTION

Attached to this paper is the text of the Stockholm Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

The text as presented has been approved by Main Committee I (Chairman: Mr. E. Ulmer, Federal Republic of Germany) as far as Articles 1 to 20 are concerned, by Main Committee II (Chairman: Mr. S. Singh, India) as far as the Protocol Regarding Developing Countries is concerned, and by Main Committee IV (Chairman: M. F. Savignon, France) as far as Articles 21 to 38 are concerned.

The countries of the Union, being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works,

Have resolved to revise and to complete the Act signed at Berne on September 9, 1886, completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, and revised at Brussels on June 26, 1948.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

ARTICLE 1

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7(4) of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

(8) The protection of this Convention shall not apply to news of the day nor to miscellaneous facts having the character of mere items of press information.

ARTICLE 2bis

(1) It shall be a matter for legislation in the countries of the Union to exclude, wholly or in part, from the protection provided by the preceding Article political speeches and speeches delivered in the course of legal proceedings.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press, broadcast, communicated to the public by wire and made the subject of public communication as envisaged in Article 11bis(1) of this Convention, when such use is justified by the informatory purpose.

(3) Nevertheless, the author shall enjoy the exclusive right of making a collection of his works mentioned in the preceding paragraphs.

ARTICLE 3

(1) The protection of this Convention shall apply to

(a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;

(b) authors who are not nationals of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purposes of this Convention, be assimilated to nationals of that country.

(3) The expression "published works" means works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(4) A work shall be considered as having been published simultaneously in several countries if it has been published in two or more countries within thirty days of its first publication.

ARTICLE 4

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to

(a) authors of cinematographic works, the maker of which has his headquarters or habitual residence in one of the countries of the Union;

(b) authors of works of architecture, erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

ARTICLE 5

(1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.

(3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.

(4) The country of origin shall be considered to be

(a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection;

(b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;

(c) in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:

(i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country, and

(ii) when these are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

ARTICLE 6

(1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the other country and are not habitually resident in one of the countries of the Union. If the country of first publication avails itself of this right, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.

(2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.

(3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the Director General of the World Intellectual Property Organization (hereinafter designated as the "Director General") by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are nationals of those countries are subjected. The Director General shall immediately communicate this declaration to all the countries of the Union.

ARTICLE 6bis

(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation.

(2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation at the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph, may provide that some of these rights may, after his death, cease to be maintained.

ARTICLE 7

(1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death.

(2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.

(3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.

(4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied arts in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

(5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4), shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the 1st January of the year following the death or such event.

(6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.

(7) Those countries of the Union bound by the Rome Act of this Convention, which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraphs, shall have the right to maintain such terms when ratifying or acceding to the present Act.

(8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

ARTICLE 7bis

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

ARTICLE 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

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

(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

ARTICLE 10

(1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

(2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.

(3) Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source and of the name of the author, if it appears thereon.

ARTICLE 10bis

(1) It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press, the broadcasting or the communication to the public by wire, of articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character, in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation shall be determined by the legislation of the country where protection is claimed.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of reporting current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works seen or heard in the course of the event may, to the extent justified by the informatory purpose, be reproduced and made available to the public.

ARTICLE 11

(1) Authors of dramatic, dramatico-musical and musical works shall enjoy the exclusive right of authorizing:

(i) the public performance of their works, including such public performance by any means or process;

(ii) any communication to the public of the performance of their works.

(2) Authors of dramatic or dramatico-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

ARTICLE 11bis

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

(2) It shall be a matter for legislation in the countries of the Union to determine the conditions under which the rights mentioned in the preceding paragraph may be exercised, but these conditions shall apply only in the countries where they have been prescribed. They shall not in any circumstances be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) In the absence of any contrary stipulation, permission granted in accordance with paragraph (1) of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast. It shall, however, be a matter for legislation in the countries of the Union to determine the regulations for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

ARTICLE 11ter

(1) Authors of literary works shall enjoy the exclusive right of authorizing:

(i) the public recitation of their works, including such public recitation by any means or process;

(ii) any communication to the public of the recitation of their works.

(2) Authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

ARTICLE 12

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

ARTICLE 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any words, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work, together with such words, if any; but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the rights of these authors to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) Recordings of musical works made in a country of the Union in accordance with Article 13(3), of the Convention signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until a date two years after that country becomes bound by this Act.

(3) Recordings made in accordance with paragraphs (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

ARTICLE 14

(1) Authors of literary or artistic works shall have the exclusive right of authorizing:

(i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;

(ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.

(2) The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original works.

(3) The provisions of Article 13(1), shall not apply.

ARTICLE 14bis

(1) Without prejudice to the copyright in any work which may have been adapted or reproduced, a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

(2)(a) Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

(b) However, in the countries of the Union which, by legislation, include among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work, such authors, if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public or to the subtitling or dubbing of texts of the work.

(c) The question whether the form of the undertaking referred to above should be in a written agreement or a written act of the same effect, shall be a matter for the legislation of the country where protection is claimed.

(d) By "contrary or special stipulation" is meant any restrictive condition which is relevant to the aforesaid undertaking.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work, nor to the principal director thereof. However, those countries of the Union, whose legislation does not contain rules providing for the application of the said paragraph (2)(b) to such director, shall notify the Director General by means of a written declaration which will be immediately communicated by him to all the countries of the Union.

ARTICLE 14ter

(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

ARTICLE 15

(1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.

(2) The person or body corporate whose name appears on a cinematographic work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.

(3) In the case of anonymous and pseudonymous works, other than those referred to in paragraph (1) above, the publisher whose name appears on the work shall, in the be absence of proof to the contrary, be deemed to represent the author, and in this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply when the author reveals his identity and establishes his claim to authorship of the work.

(4)(a) In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority who shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.

(b) Countries of the Union which make such designation under the terms of this provision shall notify the Director General by means of a written declaration giving full information concerning the authority thus designated. The Director General shall at once communicate this declaration to all other countries of the Union.

ARTICLE 16

(1) Infringing copies of a work shall be liable to seizure in any country of the Union where the work enjoys legal protection.

(2) The provisions of the preceding paragraph shall also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.

(3) The seizure shall take place in accordance with the legislation of each country.

ARTICLE 17

The provisions of this Convention shall not in any way prejudice the right of each country of the Union to control or to prohibit, by the measures provided by the legislation of that country, the distribution, performance, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE 18

(1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.

(2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew.

(3) The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in so far as it is concerned, the conditions of application of this principle.

(4) The preceding provisions shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservations.

ARTICLE 19

The provisions of this Convention shall not preclude the making of a claim to the benefit of any greater protection which may be granted by legislation in a country of the Union.

ARTICLE 20

The Governments of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements which satisfy these conditions shall remain applicable.

ARTICLE 21

(1) Special provisions regarding developing countries are included in a protocol entitled "Protocol Regarding Developing Countries."

(2) Subject to the provisions of Article 28(1)(b)(i) and (c), the Protocol Regarding Developing Countries forms an integral part of the present Act.

ARTICLE 22

(1)(a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 22 to 26.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;

(ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as the "International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as the "Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 22 to 26.

(iii) review and approve the reports and activities of the Director General of the Organization concerning the Union and give him all necessary instructions concerning matters within the competence of the Union;

(iv) elect the members of the Executive Committee of the Assembly;

(v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;

(vi) determine the program and adopt the triennial budget of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees of experts and working groups as may be necessary for the work of the Union;

determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

adopt amendments to Articles 21 to 26;

(xi) take any other appropriate action designed to further the objectives of the Union;

(xii) exercise such other functions as are under this Convention;

(xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Union not members of the Assembly shall be admitted to its meetings as observers.

(4)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(5) The Assembly shall adopt its own rules of procedure.

ARTICLE 23

(1) The Assembly shall have an Executive Committee.

(2)(a) The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 25(7)(b), have an ex officio seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements which might be established in relation with the Union to be among the countries constituting the Executive Committee.

(5)(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but not more than two-thirds of them.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union, prepared by the Director General;

(iii) approve, within the limits of the program and triennial budget, the specific yearly budgets and programs prepared by the Director General;

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director General;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(8)(a) Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules procedure.

ARTICLE 24

(1)(a) The administrative tasks with respect to the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Industrial Property.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of copyright. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection

(3) The International Bureau shall publish a monthly periodical.

(4) The International Bureau shall, on request, furnish information to any country of the Union on matters concerning the protection of copyright.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of copyright.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(7)(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 22 to 26.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 25

(1)(a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Union shall be financed from the following sources:

(i) contributions of the countries of the Union;

(ii) fees and charges due for services performed by the International Bureau in relation to the Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4)(a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3
Class VII	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the annual budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions shall have no vote in any of the organs of the Union of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(f) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(6)(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7)(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate

agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an ex officio seat on the Executive Committee.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 26

(1) Proposals for the amendment of Articles 22, 23, 24, 25, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 22, and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with the respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of

the Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 27

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For this purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Subject to the provisions of Article 26 which apply to the amendment of Articles 22 to 26, any revision of this Convention, including the Protocol Regarding Developing Countries, shall require the unanimity of the votes cast.

ARTICLE 28

(1)(a) Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification and accession shall be deposited with the Director General.

(b) Any country of the Union may declare in its instrument of ratification or accession that its ratification or accession shall not apply:

(i) to Articles 1 to 21 and the Protocol Regarding Developing Countries, or

(ii) to Articles 22 to 26.

(c) If a country of the Union has already separately accepted the Protocol Regarding Developing Countries in accordance with Article 5 of such Protocol, its declaration under item (i) of the preceding subparagraph may relate only to Articles 1 to 20.

(d) Any country of the Union which, in accordance with subparagraphs (b) and (c), has excluded from the effects of its ratification or accession one of the two groups of provisions referred to in those subparagraphs may at any later time declare that it extends the effects of its ratification or accession to that group of provisions. Such declaration shall be deposited with the Director General.

(2)(a) Subject to the provisions of Article 5 of the Protocol Regarding Developing Countries, Articles 1 to 21 and the said Protocol shall enter into force, with respect to the first five countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(i), three months after the deposit of the fifth such instrument of ratification or accession.

(b) Articles 22 to 26 shall enter into force, with respect to the first seven countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(ii), three months after the deposit of the seventh such instrument of ratification or accession.

(c) Subject to the initial entry into force, pursuant to the provisions of subparagraphs (a) and (b), of each of the two groups of provisions referred to in paragraph (1)(b)(i) and (ii), and subject to the provisions of paragraph (1)(b), Articles 1 to 21 and the Protocol Regarding Developing Countries shall, with respect to any country of the Union, other than those referred to in subparagraphs (a) and (b), which deposits an instrument of ratification or accession or any country of the Union which deposits a declaration pursuant to paragraph (1)(d), enter into force three months after the date of notification by the Director General of such deposit, unless a subsequent date has been indicated in the instrument or declaration deposited. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(d) The Protocol Regarding Developing Countries may be applied, pursuant to Article 5 thereof, prior to the entry into force of this Act, from the date of its signature.

(3) With respect to any country of the Union which deposits an instrument of ratification or accession, Articles 27 to 38 shall enter into force on the earlier of the dates on which any of the groups of provisions referred to in paragraph (1)(b) enters into force with respect to that country pursuant to paragraph (2)(a), (b) or (c).

ARTICLE 29

(1) Any country outside the Union may accede to this Act and thereby become a member of the Union. Instruments of accession shall be deposited with the Director General.

(2)(a) With respect to any country outside the Union which deposits its instrument of accession one month or more before the date of entry into force of any provisions of the present Act, this Act shall enter into force, unless a subsequent date has been indicated in the instrument of accession, on the date upon which provisions first enter into force pursuant to Article 28(2)(a) or (b); provided that:

(i) if Articles 1 to 21 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 1 to 20 of the Brussels Act,

(ii) if Articles 22 to 26 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 21 to 24 of the Brussels Act.

If a country indicates a subsequent date in its instrument of accession, this Act shall enter into force with respect to that country on the date thus indicated.

(b) With respect to any country outside the Union which deposits its instrument of accession on a date which is subsequent to, or precedes by less than one month, the entry into force of one group of provisions of the present Act, this Act shall, subject to the proviso of subparagraph (a), enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country outside the Union which deposits its instrument of accession after the date of entry into force of the present Act in its entirety, or less than one month before such date, this Act shall enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

ARTICLE 30

(1) Subject to the possibilities of exceptions provided for in the following paragraph, in Articles 28(1)(b) and 33(2), and the Protocol Regarding Developing Countries, ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(2)(a) Any country of the Union ratifying or acceding to this Act may retain the benefit of the reservations it has previously formulated on condition that it makes a declaration to that effect at the time of the deposit of its instrument of ratification or accession.

(b) Any country outside the Union may, in acceding to this Act, declare that it intends to substitute, temporarily at least, for Article 8 concerning the right of translation, the provisions of Article 5 of the Union Convention of 1886, as revised in Paris in 1896, on the clear understanding that the said provisions are applicable only to translation into the language or languages of the said country. Any country of the Union has the right to apply, in relation to the right of translation of works whose country of origin is a country availing itself of such a reservation, a protection which is equivalent to the protection granted by the latter country.

(c) Any country may withdraw such reservations at any time by notification addressed to the Director General.

ARTICLE 31

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3)(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in which it was included, and any notification given under such paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

ARTICLE 32

(1) The present Act shall, as regards the relations between the countries of the Union, and to the extent that it applies, replace the Berne Convention of September 9, 1886, and the subsequent Acts of revision. The Acts previously in force shall continue to be applicable, in their entirety or to the extent that the present Act does not replace them by virtue of the preceding sentence, in relations with countries of the Union which do not ratify or accede to this Act.

(2) Countries outside the Union, which become party to this Act, shall, subject to the provisions of paragraph (3), apply it with respect to any country of the Union not party to this Act or which, although party to this Act, has made a declaration pursuant to Article 25(1)(b)(i). Such countries recognize that the said country of the Union, in its relations with them:

(i) may apply the provisions of the most recent Act to which it is party, and

(ii) has the right to adapt the protection to the level provided for by this Act.

(3) Any country which, in ratifying or acceding to the present Act, has made any of or all the reservations permitted under the Protocol Regarding Developing Countries may apply them in its relations with other countries of the Union which are not party to this Act or which, although party to this Act, have made a declaration as permitted by Article 28(1)(b)(i), provided that the latter countries have accepted the application of the said reservations.

ARTICLE 33

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may, at the time it signs this Act or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between such country and any other country of the Union, the provisions of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provisions of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention.

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

ARTICLE 36

(1) Any country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country deposits its instrument of ratification or accession, it will be in a position under its domestic law to give effect to the provisions of this Convention.

ARTICLE 37

(1)(a) This Act shall be signed in a single copy in the French and English languages and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the German, Italian, Portuguese and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of

instruments of ratification or accession and any declarations included in such instruments or made pursuant to Article 28(1)(a), entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Article 31.

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the Bureau of the Union or its Director, respectively.

(2) Countries of the Union not bound by Articles 22 to 26 may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided under Articles 22 to 26 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

(3) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(4) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.

PROTOCOL REGARDING DEVELOPING COUNTRIES

ARTICLE 1

Any country regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations which ratifies or accedes to the Act of this Convention of which this Protocol forms an integral part and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in the Act, may, by a notification deposited with the Director General, at the time of making a ratification or accession, which includes Article 2 of the Act, declare that it will, for a period of the first ten years during which it is a party thereto, avail itself of any or all of the following reservations:

(a) substitute for the term of fifty years referred to in paragraphs (1), (2) and (3) of Article 7 of this Convention a different term, provided that it shall not be less than twenty-five years; and substitute for the term of twenty-five years referred to in paragraph (4) of the said Article a different term, provided that it shall not be less than ten years;

(b) substitute for Article 8 of this Convention the following provisions:

(i) authors of literary and artistic works protected by this Convention shall enjoy in countries other than the country of origin of their works the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works. Nevertheless, the exclusive right of translation shall cease to exist if the author shall not have availed himself of it, during a term of ten years from the date of the first publication of the original work, by publishing or causing to be published, in one of the countries of the Union, a translation in the language for which protection is to be claimed;

(ii) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, a translation of such work has not been published in that country into the national or official or regional language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to translate the work and publish the work so translated in any of the national or official or regional languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language in that country are out of print;

(iii) if the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the Government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iv) due provision shall be made by domestic legislation to assure to the owner of the right of translation a just compensation, to assure payment and transmittal of such compensation, subject to national currency regulations, and to assure a correct translation of the work;

(v) the original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union if one of the national or official or regional languages of such other country is the same language as that into which the work has been so translated, and if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferable by the licensee;

(vi) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vii) should, however, the author avail himself of the right under subparagraph (i) above during the term of ten years from the date of first publication, the license shall terminate from the date on which the author publishes or causes to be published his translation in the country where the license has been granted, provided, however, that any copies of the translation already made before the license is terminated may continue to be sold;

(viii) should, however, the author not avail himself of the right under subparagraph (i) above during the said term of ten years, compensation under the non-exclusive license referred to above shall cease to be due for any uses made after the expiry of such term;

(ix) should the author be entitled to exclusive translation rights in a country by having published or caused to be published a translation of the work in that country within ten years from the date of first publication, but should thereafter during the term of the author's copyright in the work all editions of the

authorized translation in that country be out of print, then a non-exclusive license to translate the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (ii) to (vi) above, but subject to the provisions of subparagraph (vii) above;

(c) apply the provisions of Article 9(1) of this Convention subject to the following provisions:

(i) if, after the expiration of a period of three years from the date of the first publication of a literary or artistic work, or of any longer period determined by national legislation of the developing country concerned, such work has not been published in that country in the original form in which it was created, by the owner of the right of reproduction or with his authorization, any national of such country may obtain a non-exclusive license from the competent authority to reproduce and publish such work for educational or cultural purposes; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to produce and publish such work for educational or cultural purposes, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of such work in its said original form in that country are out of print;

(ii) if the owner of the right of reproduction cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of reproduction is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the Government of that country. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application;

(iii) due provision shall be made by domestic legislation to assure to the owner of the right of reproduction a just compensation, to assure payment and transmittal of such compensation, subject to national currency regulations, and to assure an accurate reproduction of the work;

(iv) the original title and the name of the author of the work shall be printed on all copies of the published reproduction. The license shall be valid only for publication in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union for educational or cultural purposes if the domestic law in such other country makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The license shall not be transferable by the licensee;

(v) the license shall not be granted when the author has withdrawn from circulation all copies of the work;

(vi) should, however, the author avail himself of the right to reproduce the work, the license shall terminate from the date on which the author publishes or causes to be published his work in its said original form in the country where the license has been granted, provided, however, that any copies of the work already made before the license is terminated may continue to be sold;

(vii) should the author publish or cause his work to be published in its said original form in a country, but should thereafter during the term of the author's copyright in the work all authorized editions in such original form in that country be out of print, then a non-exclusive license to reproduce and publish the work may be obtained from the competent authority in the same manner and subject to the same conditions as are provided with respect to the non-exclusive license referred to in subparagraphs (i) to (v) above, but subject to the provisions of subparagraph (vi) above;

(d) substitute for paragraphs (1) and (2) of Article 11*bis* of this Convention the following provisions:

(i) authors of literary and artistic works shall enjoy the exclusive right of authorizing the broadcasting of their works and the communication to the public of the broadcast of the works if such communication is made for profit-making purposes;

(ii) the national legislations of the countries of the Union may regulate the conditions under which the right mentioned in the preceding subparagraph shall be exercised, but the effect of those conditions will be strictly limited to the countries which have put them in force. Such conditions shall not in any case prejudice the moral rights of the author, nor the right which belongs to the author to obtain an equitable remuneration which shall be fixed, failing agreement, by the competent authority;

(e) reserve the right, exclusively for teaching, study and research in all fields of education, to restrict the protection of literary and artistic works, provided due provision shall be made by domestic legislation to assure to the author a compensation which conforms to standards of payment made to national authors; the payment and transmittal of such compensation shall be subject to national currency regulations. Copies of a work published pursuant to reservations under this paragraph may be imported and sold in another country of the Union for purposes as aforesaid if that country has invoked the said reservations and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union which cannot take advantage of this Protocol are prohibited in the absence of agreement of the author or his successor in title.

ARTICLE 2

Any country which no longer needs to maintain any or all the reservations made in accordance with Article 1 of this Protocol shall withdraw such reservation or reservations by notification deposited with the Director General.

ARTICLE 3

Any country which has made reservations in accordance with Article 1 of this Protocol, and which at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still does not consider itself in a position to withdraw the reservations under the said Article 1, may continue to maintain any or all the reservations until it ratifies or accedes to the Act adopted by the next revision conference of this Convention.

ARTICLE 4

If, in conformity with the established practice of the General Assembly of the United Nations, a country should cease to be regarded as a developing country, the Director General shall give notification of such cessation to the country concerned and to all of the other countries of the Union. At the expiry of a period of six years from the date of such notification the said country shall no longer have the right to maintain any of the reservations under this Protocol.

ARTICLE 5

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

(i) in the case of a country referred to in Article 1 of this Protocol, that it intends to apply the provisions of this Protocol to works whose country of origin is a country of the Union which admits the application of the reservations under the Protocol, or

(ii) that it admits the application of the provisions of the Protocol to works of which it is the country of origin by countries which, on becoming

bound by Articles 1 to 21 of this Convention and by this Protocol, or on making a declaration of application of this Protocol by virtue of the provision of subparagraph (i), have made reservations permitted under this Protoool.

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

ARTICLE 6

Any country which has made a declaration or notification under Article 31(1) of this Convention in respect of territories which, on the date of the signature of this Convention, are not responsible for their external relations, and the situation of which can be regarded as analogous to that of the countries referred to in Article 1 of this Protocol, may notify the Director General that the provisions of this Protocol shall apply to all or part of those territories and may in such notification declare that any such territory will avail itself of any or all the reservations permitted by this Protocol.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Act.

DONE at Stockholm, on July 14, 1967.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/279
Subject (Union): Madrid (Marks)
Original: English
Distribution: Plenary of the Madrid Union (Marks)

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

MADRID UNION (TRADEMARKS)

ACT OF STOCKHOLM 1967

The French version of this document contains a copy of the text of the Stockholm Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 17(1)(a) of the proposed Act, that Act will be signed in French only.

An official English text will be established after the Stockholm Conference (see Article 17(b) of the proposed Act).

The parallel provision in the Berne Convention (see document S/278) will doubtless constitute a good basis for the preparation of the English text.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/280
Subject (Union): Madrid (FIS)
Original: English
Distribution: Plenary of the Madrid (FIS) Agreement

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

MADRID AGREEMENT (FALSE INDICATIONS OF SOURCE):

ADDITIONAL ACT OF STOCKHOLM 1967

The French version of this document contains a copy of the text of the Stockholm Additional Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 6(1) of the proposed Additional Act, that Act will be signed in French only.

Reference is made to document S/255, the English text of which will doubtless constitute a good basis for the preparation of an English translation.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/281
Subject (Union): The Hague
Original: French
Distribution: Plenary of the Hague Union

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

HAGUE UNION

COMPLEMENTARY ACT OF STOCKHOLM

The French version of this document contains a copy of the text of the Stockholm Complementary Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 11(1)(a) of the proposed Complementary Act, that Act will be signed in French only.

Since this Union has no English-speaking members, all the previous working documents, as well as the present document, were established only in French.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N°S/282
Subject (Union): Nice
Original: English
Distribution: Plenary of the Nice Union

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

NICE AGREEMENT : ACT OF STOCKHOLM 1967

The French version of this document contains a copy of the text of the Stockholm Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 15(1)(a) of the proposed Additional Act, that Act will be signed in French only.

Reference is made to document S/257, the English text of which will doubtless constitute a good basis for the preparation of an English translation.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/283
Subject (Union): Lisbon
Original: English
Distribution: Plenary of the Lisbon Union

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

LISBON AGREEMENT: ACT OF STOCKHOLM 1967

The French version of this document contains a copy of the text of the Stockholm Act in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

According to Article 17(1)(a) of the proposed Act, that Act will be signed in French only.

Reference is made to document S/258, the English text of which will doubtless constitute a good basis for the preparation of an English translation.

BIRPI
INTERNATIONAL BUREAUX
FOR THE PROTECTION
INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

WIPO CONVENTION

Attached to this paper is the text of the WIPO Convention in the form in which it will be submitted for signature, except for possible errors which may be discovered in the meantime and possible changes decided by the Plenary.

The text as presented has been approved by Main Committee V (Chairman: Mr. D. Braderman, United States of America).

The Russian and Spanish texts are under preparation and, after approval by the interested Delegations, shall be presented for signature.

C o n v e n t i o n

establishing

THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

THE CONTRACTING PARTIES,

Desiring to contribute to better understanding and cooperation among States for their mutual benefit on the basis of respect for their sovereignty and equality,

Desiring, in order to encourage creative activity, to promote the protection of intellectual property throughout the world,

Desiring to modernize and render more efficient the administration of the Unions established in the fields of the protection of industrial property and the protection of literary and artistic works, while fully respecting the independence of each of the Unions,

AGREE AS FOLLOWS:

ARTICLE 1: ESTABLISHMENT OF THE ORGANIZATION

The World Intellectual Property Organization is hereby established.

ARTICLE 2: DEFINITIONS

For the purposes of this Convention:

(i) "Organization" shall mean the World Intellectual Property Organization (WIPO);

(ii) "International Bureau" shall mean the International Bureau of Intellectual Property;

(iii) "Paris Convention" shall mean the Convention for the Protection of Industrial Property signed on March 20, 1883, including any of its revisions;

(iv) "Berne Convention" shall mean the Convention for the Protection of Literary and Artistic Works signed on September 9, 1886, including any of its revisions;

(v)

(vi) "Berne Union" shall mean the International Union established by the Berne Convention;

(vii) "Unions" shall mean the Paris Union, the Special Unions and Agreements established in relation with that Union, the Berne Union, and any other international agreement designed to promote the protection of intellectual property whose administration is assumed by the Organization according to Article 4(iii)

(viii) "intellectual property" shall include the rights relating to:

- literary, artistic and scientific works,
- performances of performing artists, phonograms, and broadcasts,
- inventions in all fields of human endeavor,
- scientific discoveries,
- industrial designs,
- trademarks, service marks, and commercial names and designations,
- protection against unfair competition,

and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

ARTICLE 3: OBJECTIVES OF THE ORGANIZATION

The objectives of the Organization are:

(i) to promote the protection of intellectual property throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization,

(ii) to ensure administrative cooperation among the Unions.

ARTICLE 4: FUNCTIONS

In order to attain the objectives described in Article 3, the Organization, through its appropriate organs, and subject to the competence of each of the Unions:

(i) shall promote the development of measures designed to facilitate the efficient protection of intellectual property throughout the world and to harmonize national legislations in this field;

(ii) shall perform the administrative tasks of the Paris Union, the Special Unions established in relation with that Union, and the Berne Union;

(iii) may agree to assume, or participate in, the administration of any other international agreement designed to promote the protection of intellectual property;

(iv) shall encourage the conclusion of international agreements designed to promote the protection of intellectual property;

(v) shall offer its cooperation to States requesting legal-technical assistance in the field of intellectual property;

(vi) shall assemble and disseminate information concerning the protection of intellectual property, carry out and promote studies in this field, and publish the results of such studies;

(vii) shall maintain services facilitating the international protection of intellectual property and, where appropriate, provide for registration in this field and the publication of the data concerning the registrations;

(viii) shall take all other appropriate action.

ARTICLE 5: MEMBERSHIP

(1) Membership in the Organization shall be open to any State which is a member of any of the Unions as defined in Article 2(vii).

(2) Membership in the Organization shall be equally open to any State not a member of any of the Unions, provided that:

(i) it is a member of the United Nations, any of the Specialized Agencies brought into relationship with the United Nations, or the International Atomic Energy Agency, or is a party to the Statute of the International Court of Justice, or

(ii) it is invited by the General Assembly to become a party to this Convention.

ARTICLE 6: GENERAL ASSEMBLY

(1)(a) There shall be a General Assembly consisting of the States party to this Convention which are members of any of the Unions.

(b) The Government of each State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) The General Assembly shall:

(i) appoint the Director General upon nomination by the Coordination Committee;

(ii) review and approve reports of the Director General concerning the Organization and give him all necessary instructions;

(iii) review and approve the reports and activities of the Coordination Committee and give instructions to such Committee;

(iv) adopt the triennial budget of expenses common to the Unions;

(v) approve the measures proposed by the Director General concerning the administration of the international agreements referred to in Article 4(iii);

(vi) adopt the financial regulations of the Organization;

(vii) determine the working languages of the Secretariat, taking into consideration the practice of the United Nations;

(viii) invite States referred to under Article 5(2)(ii) to become party to this Convention;

(ix) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) exercise such other functions as are appropriate under this Convention.

(3)(a) Each State, whether member of one or more Unions, shall have one vote in the General Assembly.

(b) One-half of the States members of the General Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of States represented is less than one-half but equal to or more than one-third of the States members of the General Assembly, the General Assembly may make decisions but, with the

exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the States members of the General Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of States having thus expressed their vote or abstention attains the number of States which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of subparagraphs (e) and (f), the General Assembly shall make its decisions by a majority of two-thirds of the votes cast.

(e) The approval of measures concerning the administration of international agreements referred to in Article 4(iii) shall require a majority of three-fourths of the votes cast.

(f) The approval of an agreement with the United Nations under Articles 57 and 63 of the Charter of the United Nations shall require a majority of nine-tenths of the votes cast.

(g) For the appointment of the Director General (paragraph (2)(i)), the approval of measures proposed by the Director General concerning the administration of international agreements (paragraph (2)(v)), and the transfer of headquarters (Article 10), the required majority must be attained not only in the General Assembly but also in the Assembly of the Paris Union and the Assembly of the Berne Union.

(h) Abstentions shall not be considered as votes.

(i) A delegate may represent, and vote in the name of, one State only.

(4)(a) The General Assembly shall meet once in every third calendar year in ordinary session, upon convocation by the Director General.

(b) The General Assembly shall meet in extraordinary session upon convocation by the Director General either at the request of the Coordination Committee or at the request of one-fourth of the States members of the General Assembly.

(c) Meetings shall be held at the headquarters of the Organization.

(5) States party to this Convention which are not members of any of the Unions shall be admitted to the meetings of the General Assembly as observers.

(6) The General Assembly shall adopt its own rules of procedure.

ARTICLE 7: CONFERENCE

(1)(a) There shall be a Conference consisting of the States party to this Convention whether or not they are members of any of the Unions.

(b) The Government of each State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) The Conference shall:

(i) discuss matters of general interest in the field of intellectual property and may adopt recommendations relating to such matters, having regard for the competence and autonomy of the Unions;

(ii) adopt the triennial budget of the Conference;

(iii) within the limits of the budget of the Conference, establish the triennial program of legal-technical assistance;

(iv) adopt amendments to this Convention as provided in Article 17;

(v) determine which States not Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(vi) exercise such other functions as are appropriate under this Convention.

(3)(a) Each Member State shall have one vote in the Conference.

(b) One-third of the Member States shall constitute a quorum.

(c) Subject to the provisions of Article 17, the Conference shall make its decisions by a majority of two-thirds of the votes cast.

(d) The amounts of the contributions of States party to this Convention not members of any of the Unions shall be fixed by a vote in which only the delegates of such States shall have the right to vote.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one State only.

(4)(a) The Conference shall meet in ordinary session, upon convocation by the Director General, during the same period and at the same place as the General Assembly.

(b) The Conference shall meet in extraordinary session, upon convocation by the Director General, at the request of the majority of the Member States.

(5) The Conference shall adopt its own rules of procedure.

ARTICLE 8: COORDINATION COMMITTEE

(1)(a) There shall be a Coordination Committee consisting of the States party to this Convention which are members of the Executive Committee of the Paris Union, or the Executive Committee of the Berne Union, or both. However, if either of these Executive Committees is composed of more than one-fourth of the number of the countries members of the Assembly which elected it, then such Executive Committee shall designate from among its members the States which will be members of the Coordination Committee, in such a way that their number shall not exceed the one-fourth referred to above, it being understood that the country on the territory of which the Organization has its headquarters shall not be included in the computation of the said one-fourth.

(b) The Government of each State member of the Coordination Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) Whenever the Coordination Committee considers either matters of direct interest to the program or budget of the Conference and its agenda, or proposals for the amendment of this Convention which would affect the rights or obligations of States party to this Convention not members of any of the Unions, one-fourth of such States shall participate in the meetings of the Coordination Committee with the same rights as members of that Committee. The Conference shall, at each of its ordinary sessions, designate these States.

(d) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) If the other Unions administered by the Organization wish to be represented as such in the Coordination Committee, their representatives must be appointed from among the States members of the Coordination Committee.

(3) The Coordination Committee shall:

(i) give advice to the organs of the Unions, the General Assembly, the Conference, and the Director General, on all administrative, financial and other matters of common interest either to two or more of the Unions, or to one or more of the Unions and the Organization, and in particular on the budget of expenses common to the Unions;

(ii) prepare the draft agenda of the General Assembly;

(iii) prepare the draft agenda and the draft program and budget of the Conference;

(iv) on the basis of the triennial budget of expenses common to the Unions and the triennial budget of the Conference, as well as on the basis of the triennial program of legal-technical assistance, establish the corresponding annual budgets and programs;

(v) when the term of office of the Director General is about to expire, or when there is a vacancy in the post of the Director General, nominate a candidate for appointment to such position by the General Assembly; if the General Assembly does not appoint its nominee, the Coordination Committee shall nominate another candidate; this procedure shall be repeated until the latest nominee is appointed by the General Assembly;

(vi) if the post of the Director General becomes vacant between two sessions of the General Assembly, appoint an Acting Director General for the term preceding the assuming of office by the new Director General;

(vii) perform such other functions as are allocated to it under this Convention.

(4)(a) The Coordination Committee [illegible] once every year in ordinary session, upon convocation by the Director General. It shall normally meet at the headquarters of the Organization.

(b) The Coordination Committee shall meet in extraordinary session, upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(5)(a) Each State, whether a member of one or both of the Executive Committees referred to in paragraph (1)(a), shall have one vote in the Coordination Committee.

(b) One-half of the members of the Coordination Committee shall constitute a quorum.

(c) A delegate may represent, and vote in the name of, one State only.

(6)(a) The Coordination Committee shall express its opinions and make its decisions by a simple majority of the votes cast. Abstentions shall not be considered as votes.

(b) Even if a simple majority is obtained, any member of the Coordination Committee may, immediately after the vote, request that the votes be the subject of a special recount in the following manner: two separate lists shall be prepared, one containing the names of the States members of the Executive Committee of the Paris Union and the other the names of the States members of the Executive Committee of the Berne Union; the vote of each State shall be inscribed opposite its name in each list in which it appears. Should this special recount indicate that a simple majority has not been obtained in each of those lists, the proposal shall not be considered as carried.

(7) Any State Member of the Organization which is not a member of the Coordination Committee may be represented at the meetings of the Committee by observers having the right to take part in the debates but without the right to vote.

(8) The Coordination Committee shall establish own rules of procedure.

ARTICLE 9: INTERNATIONAL BUREAU

(1) The International Bureau shall be the Secretariat of the Organization.

(2) The International Bureau shall be directed by the Director General, assisted by two or more Deputy Directors General.

(3) The Director General shall be appointed for a fixed term, which shall be not less than six years. He shall be eligible for reappointment for fixed terms. The periods of the initial appointment and possible subsequent appointments, as well as all other conditions of the appointment, shall be fixed by the General Assembly.

(4)(a) The Director General shall be the chief executive of the Organization.

(b) He shall represent the Organization.

(c) He shall report to, and conform to the instructions of, the General Assembly as to the internal and external affairs of the Organization.

(5) The Director General shall prepare the draft programs and budgets and periodical reports on activities. He shall transmit them to the Governments of the interested States and to the competent organs of the Unions and the Organization.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the General Assembly, the Conference, the Coordination Committee, and any other committee or working group. The Director General or a staff member designated by him shall be ex officio secretary of these bodies.

(7) The Director General shall appoint the staff necessary for the efficient performance of the tasks of the International Bureau. He shall appoint the Deputy

Directors General after approval by the Coordination Committee. The conditions of employment shall be fixed by the staff regulations to be approved by the Coordination Committee on the proposal of the Director General. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(3) The nature of the responsibilities of the Director General and of the staff shall be exclusively international. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties.

(1) The headquarters of the Organization shall be at Geneva.

(2) Its transfer may be decided as provided for in Article 6(3)(d) and (g).

ARTICLE 11: FINANCES

(1) The Organization shall have two separate budgets: the budget of expenses common to the Unions, and the budget of the Conference.

(2)(a) The budget of expenses common to the Unions shall include provision for expenses of interest to several Unions.

(b) This budget shall be financed from the following sources:

(i) contributions of the Unions, provided that the amount of the contribution of each Union shall be fixed by the Assembly of that Union, having regard to the interest the Union has in the common expenses;

(ii) charges due for services performed by the International Bureau not in direct relation with any of the Unions or not received for services rendered by the International Bureau in the field of legal-technical assistance;

(iii) sale of, or royalties on, the publications of the International Bureau not directly concerning any of the Unions;

(iv) gifts, bequests, and subventions, given to the Organization, except those referred to in paragraph (3)(b)(iv);

(v) rents, interests, and other miscellaneous income, of the Organization.

(3)(a) The budget of the Conference shall include provision for the expenses of holding sessions of the Conference and for the cost of the legal-technical assistance program.

(b) This budget shall be financed from the following sources:

(i) contributions of States party to this Convention not members of any of the Unions;

(ii) any sums made available to this budget by the Unions, provided that the amount of the sum made available by each Union shall be fixed by the Assembly of that Union and that each Union shall be free to abstain from contributing to the said budget;

(iii) sums received for services rendered by the International Bureau in the field of legal-technical assistance;

(iv) gifts, bequests, and subventions, given to the Organization for the purposes referred to in subparagraph (a).

(4)(a) For the purpose of establishing its contribution towards the budget of the Conference, each State party to this Convention not member of any of the Unions shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class A 10
Class B . . . .
Class C 1

(b) Each such State shall, concurrently with taking action as provided in Article 14(1), indicate the class to which it wishes to belong. Any such State may change class. If it chooses a lower class, the State must announce it to the Conference at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each such State shall be an amount in the same proportion to the total sum to be contributed to the budget of the Conference by all such States as the number of its units is to the total of the units of all the said States.

(d) Contributions shall become due on the first of January of each year.

(e) If the budget is not adopted before the beginning of a new financial period, the budget shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) Any State party to this Convention not member of any of the Unions which is in arrears in the payment of its financial contributions under the present Article, and any State party to this Convention member of any of the Unions which is in arrears in the payment of its

contributions to any of the Unions, shall have no vote in any of the bodies of the Organization of which it is a member, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any of these bodies may allow such a State to continue to exercise its vote in that body if, and as long as, it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

(6) The amount of the fees and charges due for services rendered by the International Bureau in the field of legal-technical assistance shall be established, and shall be reported to the Coordination Committee, by the Director General.

(7) The Organization, with the approval of the Coordination Committee, may receive gifts, bequests, and subventions, directly from Governments, public or private institutions, associations or private persons.

(8)(a) The Organization shall have a working capital fund which shall be constituted by a single payment made by the Unions and by each State party to this Convention not member of any Union. If the fund becomes insufficient, it shall be increased.

(b) The amount of the single payment of each Union and its possible participation in any increase shall be decided by its Assembly.

(c) The amount of the single payment of each State party to this Convention not member of any Union and its part in any increase shall be a proportion of the contribution of that State for the year in which the fund is established or the increase decided. The proportion and the terms of payment shall be fixed by the Conference on the proposal of the Director General and after it has heard the advice of the Coordination Committee.

(9)(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall

grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have an ex officio seat on the Coordination Committee.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(10) The auditing of the accounts shall be effected by one or more Member States, or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the General Assembly.

ARTICLE 12: LEGAL CAPACITY; PRIVILEGES AND IMMUNITIES

(1) The Organization shall enjoy on the territory of each Member State, in conformity with the laws of that State, such legal capacity as may be necessary for the fulfilment of the Organization's objectives and for the exercise of its functions.

(2) The Organization shall conclude a headquarters agreement with the Swiss Confederation and with any other State in which the headquarters may subsequently be located.

(3) The Organization may conclude bilateral or multilateral agreements with the other Member States with a view to the enjoyment by the Organization, its officials, and representatives of all Member States, of such privileges and immunities as may be necessary for the fulfilment of its objectives and for the exercise of its functions.

(4) The Director General may negotiate, and after approval by the Coordination Committee shall conclude, the agreements referred to in paragraphs (2) and (3).

ARTICLE 13: RELATIONS WITH OTHER ORGANIZATIONS

(1) The Organization shall, where appropriate, establish working relations and cooperate with other intergovernmental organizations. Any general agreement to such effect entered into with such organizations shall be concluded by the Director General after approval by the Coordination Committee.

(2) The Organization may, on matters within its competence, make suitable arrangements for consultation and cooperation with international non-governmental organizations and, with the consent of the Governments concerned, with national organizations, governmental or non-governmental. Such arrangements shall be made by the Director General after approval by the Coordination Committee.

ARTICLE 14: BECOMING PARTY TO THE CONVENTION

(1) States referred to in Article 5 may become party to this Convention and Member of the Organization by:

(i) signature without reservation as to ratification, or

(ii) signature subject to ratification followed by the deposit of an instrument of ratification, or

(iii) deposit of an instrument of accession.

(2) Notwithstanding any other provision of this Convention, a State party to the Paris Convention, the Berne Convention, or both Conventions, may become party to this Convention only if it concurrently ratifies or accedes to, or only after it has ratified or acceded to:

either the Stockholm Act of the Paris Convention in its entirety or with only the limitation set forth in Article 20(1)(b)(i) thereof,

or the Stockholm Act of the Berne Convention in its entirety or with only the limitation set forth in Article 28(1)(b)(i) thereof.

(3) Instruments of ratification or accession shall be deposited with the Director General.

ARTICLE 15: ENTRY INTO FORCE OF THE CONVENTION

(1) This Convention shall enter into force three months after ten States members of the Paris Union and seven States members of the Berne Union have taken action as provided in Article 14(1), it being understood that, if a State is a member of both Unions, it will be counted in both groups. On that date, this Convention shall enter into force also in respect of States which, not being members of either of the two Unions, have taken action as provided in Article 14(1) three months or more prior to that date.

(2) In respect to any other State, this Convention shall enter into force three months after the date on which such State takes action as provided in Article 14(1).

ARTICLE 16: RESERVATIONS

No reservations to this Convention are permitted.

ARTICLE 17: AMENDMENTS

(1) Proposals for the amendment of this Convention may be initiated by any Member State, by the Coordination Committee, or by the Director General. Such proposals shall be communicated by the Director General to the Member States at least six months in advance of their consideration by the Conference.

(2) Amendments shall be adopted by the Conference. Whenever amendments would affect the rights and obligations of States party to this Convention not members of

any of the Unions, such States shall also vote. On all other amendments proposed, only States party to this Convention members of any Union shall vote. Amendments shall be adopted by a simple majority of the votes cast, provided that the Conference shall vote only on such proposals for amendments as have previously been adopted by the Assembly of the Paris Union and the Assembly of the Berne Union according to the rules applicable in each of them regarding the adoption of amendments to the administrative provisions of their respective Conventions.

(3) Any amendment shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the States members of the Organization, entitled to vote on the proposal for amendment pursuant to paragraph (2), at the time the Conference adopted the amendment. Any amendments thus accepted shall bind all the States which are Members of the Organization at the time the amendment enters into force or which become Members at a subsequent date, provided that any amendment increasing the financial obligations of Member States shall bind only those States which have notified their acceptance of such amendment.

ARTICLE 18: DENUNCIATION

(1) Any Member State may denounce this Convention by notification addressed to the Director General.

(2) Denunciation shall take effect six months after the day on which the Director General has received the notification.

ARTICLE 19: NOTIFICATIONS

The Director General shall notify the Governments of all Member States of:

(i) the date of entry into force of the Convention,

(ii) signatures and deposits of instruments of ratification or accession,

(iii) acceptances of an amendment to this Convention, and the date upon which the amendment enters into force,

(iv) denunciations of this Convention.

ARTICLE 20: FINAL PROVISIONS

(1)(a) This Convention shall be signed in a single copy in English, French, Russian and Spanish, all texts being equally authentic, and shall be deposited with the Government of Sweden.

(b) This Convention shall remain open for signature at Stockholm until January 13, 1968.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in German, Italian and Portuguese, and such other languages as the Conference may designate.

(3) The Director General shall transmit two duly certified copies of this Convention and of each amendment adopted by the Conference to the Governments of the States members of the Paris or Berne Unions, to the Government of any other State when it accedes to this Convention, and, on request, to the Government of any other State. The copies of the signed text of the Convention transmitted to the Governments shall be certified by the Government of Sweden.

(4) The Director General shall register this Convention with the Secretariat of the United Nations.

ARTICLE 21: TRANSITIONAL PROVISIONS

(1) Until the first Director General assumes office, references in this Convention to the International Bureau or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Industrial, Literary and Artistic Property (also called the United International Bureaux for the Protection of Intellectual Property (BIRPI)), or its Director, respectively.

(2)(a) States which are members of any of the Unions but which have not become party to this Convention may, for five years from the date of entry into force of this Convention, exercise, if they so desire, the same rights as if they had become party to this Convention. Any State desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such States shall be deemed to be members of the General Assembly and the Conference until the expiration of the said period.

(b) Upon expiration of this five-year period, such States shall have no right to vote in the General Assembly, the Conference, and the Coordination Committee.

(c) Upon becoming party to this Convention, such States shall regain such right to vote.

(3)(a) As long as there are States members of the Paris or Berne Unions which have not become party to this Convention, the International Bureau and the Director General shall also function as the United International Bureaux for the Protection of Industrial, Literary and Artistic Property, and its Director, respectively.

(b) The staff in the employment of the said Bureaux on the date of entry into force of this Convention shall, during the transitional period referred to in subparagraph (a), be considered as also employed by the International Bureau.

(4)(a) Once all the States members of the Paris Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of that Union shall devolve on the International Bureau of the Organization.

(b) Once all the States members of the Berne Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of that Union shall devolve on the International Bureau of the Organization.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Stockholm, on July 14, 1967.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 8, 1967 N° S/285
Subject (Union): Berne
Original: English
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

STATEMENT OF THE UNITED STATES DELEGATION ON THE BERNE CONVENTION

Mr. Chairman, on behalf of the United States Delegation I should like to express my appreciation for this opportunity to speak once more near the close of this historic Conference. I have never attended an international conference that had better advance preparation, a more efficient secretariat, or warmer and more generous hosts. This has been an unforgettable experience, not only in the accomplishments of the Conference and the beautiful surroundings, but especially in the friends we have made here.

As others have observed, the issue at Stockholm has been nothing less than the future of international copyright law. To our regret the United States does not yet belong to the Berne Union, but as members of the international copyright community we are deeply interested and concerned in the decisions you are taking.

You all know how long we have been working on a complete revision of our own 1909 law. Many of you who knew and worked with my predecessor, Arthur Fisher, are aware that he was responsible for undertaking the revision program, and that one of his goals was a truly unified system of international copyright law. My hope is that by the end of 1968 we will see the enactment of a completely new copyright law in the United States, although we still have serious problems to overcome. Once that happens we will be in a position to consider adherence to the Berne Union, although here too it is no secret that we have some serious problems. The spirit of cooperation shown at Stockholm gives me every reason to hope that the accommodations necessary to overcome these problems on both sides will be made when the time comes.

It is sometimes forgotten today, in my own country as well as in others, that for more than 150 years the United States was a colonial dependency, that it gained its independence through a violent revolution, and that during the next century it was a developing country with many of the special needs and wants we have heard expressed here. Throughout most of the nineteenth century we were very little concerned as a nation with the encouragement of individual authors. Instead, the emphasis was

on agricultural and later on industrial growth, and on efforts to increase literacy and promote free public education. We gave no protection to foreign authors until 1891, and when we finally did we attached rigid manufacturing requirements aimed at forcing the publication of American editions.

The result was that throughout our formative years as a nation Americans read English books and American authors were unable to make a living at writing. True, you can say, we had our Melville and our Poe, our Hawthorne and our Whitman. But anyone who knows the lives of those authors knows how they suffered just to be authors. And who can say what potential Poes and Hawthornes we had who never published anything because they had to support their families.

While all this was understandable and perhaps inevitable, there was a very high price attached. A country that denies copyright protection to works from other countries will benefit its own citizens by making those works freely available to them, especially for educational purposes. But our own experience proves that these benefits are not free. Aside from the long-range cultural dependency that is certain to result, there is a serious and irretrievable loss of national authorship that may not become apparent for a century or more. A country at a certain stage of development is faced with alternatives, and the immediate needs and demands of its citizens obviously have to take first place. It is often hard to see that in the long run a country's books and art and music are its most precious and valuable national resources.

I cannot blame you if you evaluate what I am saying in light of our clear commercial interest in what is happening at Stockholm. We have now become an exporter of cultural goods, and the producers of those goods naturally want to be paid for them. But at the same time I hope you will remember that we once went through what the developing countries are now experiencing, and we are still paying the price for our mistakes. It is in the light of this experience that I am generally encouraged by what is happening here.

The choice now facing the developing countries is the same one that faced the United States some decades ago: whether to join with other countries in a Union accommodating differences in national laws but following a consistent and evolving pattern, or whether to go it alone in copyright matters. The United States took the latter course, and the result was as bad as it was predictable. The provisions of our law and the practises of our publishing, motion picture, broadcasting, and other industries became fixed and hardened without regard to what was happening in other countries and in international copyright law. This meant that when the United States began to shift over from an importing to an exporting nation in copyrighted materials, we found that our system was basically inconsistent with the system that has evolved throughout the rest of the world. It has become essential to our own interests to bridge this gap, but this has proved an extraordinarily difficult task and one which we are still some way from accomplishing.

This is why I look on what you are doing here as fundamentally sound. The developed countries have seen the need to accommodate the urgent needs of the newly developed nations to an international system developed to meet different needs, and have done so in a way that preserves the Berne Convention as a dynamic, vital instrument that will continue to provide a real cultural link throughout the world. I am also glad to see that for their part the developing countries are not repeating our mistake. By making themselves active partners in the international copyright community they will have three important advantages that we did not: they will be able to participate directly in the evolution of international copyright law, they will be induced to offer their own authors more encouragement and better protection than we did, and they will have more flexibility in adjusting their laws to changing conditions in their own countries.

Fears have been expressed that the Stockholm Conference may represent a step backward in international copyright law. I disagree. In my opinion the course of events in Stockholm has been constructive and healthy, and I only wish the United States were an integral part of it. But at the same time I see a trend here that concerns me, and that I think deserves a great deal of careful thought. As a developing country, the United States responded to international copyright protection by imposing a rigid manufacturing requirement which, despite endless controversy, we have found impossible to amputate completely from our law. The world moves but ideas come round again in different forms: the compulsory licenses you have been discussing at this Conference seem to resemble the US manufacturing clause in changed and possibly less objectionable forms.

Compulsory licenses are certainly better than no protection at all, and can be very useful in solving certain problems. But a compulsory license ultimately implies some sort of central collecting agency to collect and pay out money. The author no longer negotiates with the user, but must deal with a bureaucracy to obtain remuneration for uses of his works, and as the fabric becomes more complex the bureaucracy becomes larger and more powerful. I hardly need to add that, if an author must go to a large central bureaucracy to obtain money on which to live, there are likely to be consequences in loss of independence and artistic integrity that have chilling implications.

During the last two years, we in the United States have seen the beginnings of a social revolution brought on by the increasing use of computers, otherwise known as information storage and retrieval systems or data processing devices. It seems clear that the United States, and indeed every country in the world, is on the threshhold of the computer age. We have already found that the demands of computers, or rather of those who control computers, upon copyright works are enormous. It may seem far-fetched to you now, but I believe that we will realize all too soon that the computer will bring the most far-reaching changes in individual authorship and independent expression since the Renaissance.

Copyright as it now exists combines two elements: control and remuneration. Take away the first and you no longer have copyright;

you have patronage. Within the next few generations I feel sure that there will be strenuous efforts in every country, developed as well as developing, to take the author's control over his work away from his copyright, or to restrict it sharply, leaving him with rights of remuneration on which limits are also placed. The International Copyright Union and the Universal Copyright Convention would both do well to prepare for this challenge and consider ways of meeting it.

To my mind, the true way that copyright benefits the public is by encouraging, stimulating, and rewarding individual authors to create works of literature, art, and music, completely independent of any control except their own artistic conscience. The Stockholm Conference is indeed a turning point in world copyright law. My hope is that, while demonstrating the flexibility and vigor necessary to accommodate very different situations in Member Countries, the Berne Convention also continues to display the strength necessary to preserve the purpose of copyright itself.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 8, 1967 N° S/286
Subject (Union): Berne
Original: French - English
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

PROPOSAL BY CZECHOSLOVAKIA

Add to Article 25, paragraph 2 a new sub-paragraph:

(d) The Protocol may be applied, within the meaning of its Article 5, three months after the signature of this Act.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/287
Subject (Union): Berne
Original: French and English
Distribution: General

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

RESOLUTION

The Intellectual Property Conference of Stockholm,

Recognizing the special economic and cultural needs of developing countries,

Desirous of enabling developing countries to have access to works protected by copyright for their educational requirements,

Having for this purpose adopted the Protocol Regarding Developing Countries,

Recommends the International Bureau of the Berne Union to undertake in association with other governmental and non-governmental organizations a study of ways and means for creating financial machinery to ensure a fair and just return to authors.

BIRPI
ED INTERNATIONAL BUREAUX
FOR THE PROTECTION
F INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/288
Subject (Union): Berne-Paris
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

REPORT

MAIN COMMITTEE IV

1. The tasks entrusted by the Programme of the Conference and by the Rules of Procedure to Main Committee IV were somewhat complex.

It was required not only to consider and discuss the proposals for revising the administrative and structural provisions of the International Convention for the Protection of Industrial Property (Paris Union, document S/3), the International Convention for the Protection of Literary and Artistic Works (Berne Union, document S/9), and the other Conventions and Agreements concerned with industrial property: Madrid Agreements (International Registration of Trademarks); Repression of False or Misleading Indications of Source on Goods), The Hague Agreement (International Deposit of Industrial Designs), the Nice Agreement (International Classification of Goods and Services), the Lisbon Agreement (Protection of Appellations of Origin and their International Registration) (documents S/4, S/5, S/6, S/7 and S/8); it was also required to examine proposals for the final clauses of the various Conventions, the provisions regarding the adoption of any transitional measures and, lastly, decisions to be taken regarding the ceiling of contributions of States. While the structural and administrative provisions of the Unions are connected with the proposed new intellectual property organization, the final clauses and transitional measures appear to be related to questions also concerning other Main Committees of the Conference, so that constant coordination, in particular through the holding of joint meetings, was established during our work.

2. The Plenary of the Conference held on its opening accepted the Swedish Government's proposals to entrust the Chairmanship of Main Committee IV to France and the duties of Rapporteur to the undersigned.

3. Under the Chairmanship of Mr. Savignon (Vice-Chairman: Mr. Lule, Uganda) the work of the Committee began on June 13 and ended on July 10, 1967. In the course of its meetings, the Committee set up a Drafting Committee consisting of the Delegates of Brazil, France, Federal Republic of Germany, Netherlands, South Africa, Spain, Sweden, Tunisia, United Kingdom, United States of America, Union of Soviet Socialist Republics. The Chairmanship of this Committee was entrusted to Mr. Labry (France) and the Vice-Chairmanship to Miss Nilsen (United States of America).

Working Groups were set up as and when the work of the Committee required, for prior consideration of certain questions.

4. In the general debate on the structural and administrative reform of the Unions, opened by the Chairman at the first meeting of the Committee, all delegations declared themselves ready to adopt, in principle, the proposals, which had been the subject of lengthy preparatory work, in particular in Committees of Governmental Experts.

The creation of new permanent organs for each Union which would be representative of the joint wishes of Members and the independence of each Union in particular in respect of its own budget are the basic features of the new administrative structure elaborated by the Committee and proposed to the Conference.

In a statement, the Head of the Swiss Delegation recalled that the Federal Council considered its supervisory functions an honor, but was prepared to accept the transfer of those functions to member States if they so desired, on the understanding that the Swiss Government would continue to exercise them in respect of States not yet members of the new Intellectual Property Organization. This statement was deeply appreciated by all delegations.

5. It was also agreed in the course of the general debate that references to the new Organization appearing in the texts adopted by the Committee might be regarded as approved subject to the decisions taken by Main Committee V. In view of the fact that the draft leaves it open to States to choose between several alternatives at the time of ratifying or acceding to the Stockholm Acts (accepted by the Committee notwithstanding certain proposals to limit this possibility), some delegations recommended that such references should be limited to the absolute minimum; this was taken into account when preparing the new texts.

6. The study of the provisions contained in the Programme regarding the membership and functions of the Assembly and the Executive Committee of each Union gave rise to numerous proposals

on the part of several delegations. Even when they were accepted by the Committee, these proposals did not change the structure of the new organs as provided in the Programme. It should merely be pointed out that efforts were made to strengthen the existing parallelism between the various Unions in this respect too, while trying not to over-complicate the organization of certain Agreements dealing with industrial property.

7. The Assembly thus remains the sovereign organ of each Union by reason of the fact that it is composed of all the countries of the Union, and Committee IV sought to strengthen its powers. The Executive Committee is still made up of countries elected by the Assembly from amongst its members, as in the Programme.

The constitution of the Assembly is, of course, the key feature of the administrative reform of the Unions, and the Committee made this the starting point for its work. The Assembly enables the member States of each Union to exercise their sovereign powers, even though they may be grouped in a Union. Moreover, from the point of view of the development of international cooperation in the field of intellectual property, the Assembly provides a possibility for a continuing dialogue, whereas the existing organization of the Union only allows for meetings which may sometimes take place at intervals of more than 20 years, at a time in which culture and technology are developing at an unprecedented rate.

8. With reference to the membership andfunctions of the new organs of each Union, I should merely like to draw attention to a question relating to the representation of Member States in the Assembly raised in regard to a specific case, in a proposal by the Delegations of Madagascar and Senegal. As a result of the very serious apprehensions expressed by certain delegations, which feared that the provisions proposed might prejudice a fundamental general principle, namely that each delegation to the Assembly can represent only one country and vote only on its behalf, a compromise decision resulting from lengthy debates in the Committee and in an ad hoc Working Group was adopted on the basis of a proposal by the Netherlands Delegation to restrict the provision to the Paris Convention only and in favor only of certain countries of that Union grouped under an Agreement in a common office--having the character for each of them of a special national service of industrial property (referred to in the same Convention)--and which can be jointly represented by one of their number in discussions in the Assembly. It is also understood that one delegation can vote by proxy only for one country and only for exceptional reasons.

A proposal submitted during the discussions by some delegations (document S/189) to extend the proposal of the Delegations of Madagascar and Senegal was rejected by a majority after a roll-call vote. The inclusion of such a general possibility would have been contrary to a general principle stated elsewhere in the draft and would have threatened to distort considerably the structure of the Assembly and any other organ of the Union in respect of voting and quorum requirements.

9. The question of the quorum of the Assembly of each Union was the subject of a study by a working group established for the purpose by the Committee which felt that the quorum of one-third specified in a paragraph of the Draft was too low. The provisions adopted by the Committee on this point, based on a proposal by the Delegations of Austria and Poland, were designed to raise the quorum to one-half, on the understanding, however, that the Assembly could take decisions, even if the number of countries represented at a session was less than one-half, provided that it was equal to or more than one-third of the member countries. Decisions adopted in such a case would, however, be enforceable only following a procedure which involved notification of such decisions to the countries that had not been represented at the Assembly, thereby attaining the quorum by correspondence. The arrangement adopted for this purpose may seem somewhat complicated, but there is no obstacle to its application, where necessary, being clarified and simplified by clauses of the rules of procedure of the Assembly.

10. A certain interdependence exists between the question of the quorum of the Assembly and the question of the majority required in the Assembly for amending the administrative clauses of the two Conventions. According to the Programme, only amendments to administrative clauses are within the jurisdiction of the Assembly. On the other hand, as regards substantive provisions, their revision is entrusted to Conferences of the States of the Union. The majority required according to the text adopted by the Committee as regards administrative clauses is three-quarters of the votes cast, except where amendments to Articles relating to the composition and the functions of the Assembly are concerned, where a majority of four-fifths of the votes cast is required.

The discussion of these questions was somewhat lively, especially as regards the Conferences of Revision of substantive clauses. The condition of unanimity was reaffirmed as regards the Berne Convention, including the Protocol which is an integral part thereof. Proposals designed to substitute a qualified majority for unanimity, submitted by certain delegations, were rejected. As regards the substantive provisions of the Paris Convention, the present situation has been maintained.

11. The administrative tasks with respect to each Union will be performed, under the new structural organization of the Union,

by the International Bureau. This is a continuation of the Bureaux of the Paris Union and the Berne Union united in 1892 by virtue of a decree of the Swiss Federal Council. The Committee made no important change in substance to the proposals contained in the Programme. The replacement of the formula used in the Programme by the expression "the administrative tasks with respect to the Union shall be performed by the International Bureau which is a continuation of the Bureau of the Union" does not alter the substance. It is in fact a continuation in the same functions, whereas the new wording confirms that, as a transitional measure, as long as all countries of the Unions have not become members of the Organization, the International Bureau of the Organization also acts as the Bureau of each Union.

The International Bureau shall provide the Secretariat of the various organs of each Union.

This duplication of functions in the same organ--like a two-faced Janus--is not merely characteristic of the new structural organization established at Stockholm in the International Bureau; it is also found in the person of the Director General. The Director General remains the highest official of the new Organization and at the same time of each of the Unions; he also represents all these various international bodies which are moreover individually independent.

12. In regard to finances, the text adopted by the Committee stipulates that each Union shall have its own budget. This provision also expresses the concept of the independence of each Union, which is reflected in the new structural organization of the Unions.

On the basis of a joint proposal by France, Germany (Federal Republic), Italy and the United States of America, some amendments were made to the original text (documents S/3 and S/9) concerning the finances of the Unions. In this connection, the Committee reached agreement on a text stating that the budget of the Union should include the expenses proper to the Union itself, its contribution to the budget of

expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization. Certain consequent modifications were made to other provisions of the original texts. In connection with this clause, the Delegations of France, Germany (Federal Republic), Hungary, Italy, the United Kingdom, the United States of America and the Union of Soviet Socialist Republics submitted proposals to Main Committee V seeking to insert the following words in the list of powers of the General Assembly of the Organization: "... adopt the budget of expenses common to the Unions" (documents S/62 and S/93).

Still on the subject of finances, the Delegation of Spain had thought of including among the sources of finance for the budget of the Paris Union a percentage on the fees to be charged by national offices where the right of priority is claimed, and put forward a proposal in the form of an amendment to the Article of the Paris Convention dealing with finances. This proposal was subsequently withdrawn and changed by the Committee into a resolution addressed to the Conference requesting it to invite the International Bureau to study the question and to submit the result of its work to the next Revision Conference of the Paris Union, at Vienna.

13. Also in connection with finances, the Committee adopted draft decisions regarding the maximum annual amount of ordinary contributions of countries members of the Paris Union and the Berne Union (ceiling of contributions) for the years 1968, 1969 and 1970.

14. At this point in my report, I realize that if I were to discuss in detail each of the questions studied by the Committee, my report would be unjustifiably lengthy, not only in view of the existence of the minutes and other documents of the Committee, but above all because no complex problems arose regarding the administrative organization of the Union. The Committee accepted the proposals on these matters contained in the draft texts of the Programme of the Conference almost in their entirety. It was therefore a question of settling technical matters and drafting points. In this connection I should like to recall here the really impressive work done by the Drafting Committee, which was responsible in particular for preparing the text of the Agreements on industrial property connected with the Paris Convention, taking account of the parallelism to be achieved between these various instruments.

I shall therefore confine myself to discussing two or three questions concerning the final and transitional clauses.

15. Within the framework of the final clauses of the Paris Convention and the Berne Convention, the Committee paid special attention to the proposals of the Programme concerning the application of the earlier Acts of the Union Conventions (Article 18, Paris; Article 27, Berne) which refer to the relations between States members of the Unions having acceded to different earlier Acts, and particularly to the relations between a country acceding solely to the Act of Stockholm and other countries members of the Unions that have not acceded thereto.

Because alterations to the proposals on this matter to be found in the original Programme affected other provisions, to some extent related to the same question (in particular Article 25quater (Berne) originally proposed in relation to the expected application of the Protocol Regarding Developing Countries), these problems were also considered at joint meetings of Main Committees II and IV, where consideration was also given to other problems, especially those raised by Article 20bis (Berne) on the Protocol Regarding Developing Countries. The joint meeting of these two Committees referred the preliminary examination of these matters to a Working Group under the chairmanship of Mr. Voyame, which submitted its conclusions following a thorough discussion. Furthermore, after the conclusions of the Working Group had been approved, the matter was once again raised in the Committee, solely in relation to paragraph (3) of Article 27 (Berne), at the instigation of the Delegation of Switzerland, and it was decided to reopen discussion on the point.

16. The solution of problems relating to the application of previous Acts within the framework of a Union Convention, may differ according to which view of the effect of international treaties on the reciprocal obligations of States arising from the successive Acts of a Union Convention is adopted in public international law. In this respect, the discussions reflected the different legal concepts that exist on this subject, and differences of opinion concerning possible means of settling the matter were naturally revealed. Furthermore, the question is also bound up with the basic principles of Article 2 (Paris) and Article 4 (Berne), relating either to the concept of equality of treatment (assimilation clause), or to the obligation of States to observe the rights specially granted by the Convention (minimum rights), as well as with the principle of the enjoyment and exercise of rights independently of protection in the country of origin of the work. These problems of a general nature, which have in the past been the subject of various doctrinal discussions were once again raised in the Committee. From among the fairly divergent views--according to one of which a State should be bound only by the Act to which it is a party and only in regard to States that are also parties, and according to another of which the obligations of a State of the Union with respect to all the other countries of the Union and, therefore, even with respect to countries Members of the Union that are not parties to the said Act, shall be defined by the provisions of

the most recent Act to which it accedes--there emerged in the Committee a view that had regard in reciprocal relations to certain interests of a country that has not acceded to a later Act (in the case in point the Act of Stockholm).

17. The solution envisaged in the Committee was inspired by the following general principle: since it is not different treaties that are concerned, but the successive Acts of a Union of States, a relationship must always exist between all the countries of the Union, even if they are not bound by a common Act. Furthermore, the successive Acts of a Union Convention have more or less parallel provisions, so that, from a practical standpoint, the question arises solely in regard to the clauses that differ and, in particular, when the later Act to which a country of the Union has not acceded contains provisions somewhat far removed from the level of protection guaranteed by the previous Act. In that case only it appeared equitable and legally correct that the countries parties to the Stockholm Act, in accordance with the above-mentioned Swiss proposal, should apply this Act in their relations with all countries of the Union, even in respect of those that have not acceded to the Stockholm Act, while the latter countries should apply in their relations with them the provisions of the most recent Act to which they are parties, while nevertheless having the right to adapt the level of protection therein to the level guaranteed by the Act of Stockholm. Wordings based on these principles were adopted by the Committee.

18. There is some connection between the conception regarding the general question of the application of earlier Acts and the decision taken by the Committee on the accession of a country outside the Union which accedes to the Stockholm Act and to the earlier Acts at the same time. This decision extended to the Paris Convention the provision already contained in Article 28(3) of the Berne Convention. Accordingly, after the entry into force of the Stockholm Act in its entirety, a country will not be able to accede to the earlier Acts of the Paris Convention. Only after lengthy discussion did the Drafting Committee agree on this extension of the principle stated in the text of the Berne Convention. As was pointed out in the Committee, a distinction must be made between accession to the earlier Acts and the application of these Acts. A country cannot accede to the earlier Acts of a Union Convention, since they are replaced by the most recent Act; but owing to the links existing between countries outside the Union which accede to the most recent Act and countries already Members of the Union which do not accede to it, relations which also derive from the content of earlier Acts are established between these two categories of countries. Moreover, nothing prevents a country acceding for the first time to the Unions, and in particular to the Paris Union, from making an express declaration on the application of earlier Acts.

The new wording adopted by the Committee introduces a further element of parallelism between the two texts of the Convention.

19. Another question also arose in connection with relations between Union countries within the framework of the unitary system of the Unions. This was the provision of Article 25quater of the original text of the Programme, dealing with the anticipated voluntary application of reservations made under the Protocol Regarding Developing Countries, at any time after the date of signature of the Stockholm Act relating to the revision of the Brussels Convention, by any country of the Union not yet bound by the substantive provisions of that Act, including the Protocol which forms an integral part of it. A provision which was discussed at length in the Working Group and was in conformity with Article 25quater was included in an Article of the Protocol proposed to Main Committee II by its Drafting Committee.

20. At the Brussels Conference for the revision of the Berne Convention, a clause concerning the settlement of disputes was inserted in the text of the Convention (Article 27bis) making it compulsory to accept the jurisdiction of the International Court of Justice in the case of any dispute between two or more countries of the Union concerning the interpretation or application of the Convention which could not be settled by negotiation. On the other hand, there is no clause of this nature in the Paris Convention.

The Committee gave repeated consideration to this question on the basis of the proposal in the Programme, which reproduced the existing Berne provision, together with various alternatives. This proposal, which, moreover, was limited to the Berne Convention, made some delegations afraid that any alteration in that provision might weaken the Convention in regard to the compulsory jurisdictional protection which had been achieved with such difficulty at the Brussels Conference. From another point of view, some delegations expressed apprehension lest such a clause might constitute an obstacle to the ratification of the Brussels Act by various Union countries. Finally, the Committee endeavored all the time to retain a certain parallelism between the Conventions (Paris and Berne) in regard to the administrative clauses, that is to say those which do not affect the substantive provisions of the two Conventions. A compromise proposal submitted by the Delegations of the Netherlands and Switzerland, which would make it possible to insert the same provision on the settlement of disputes in both Conventions, finally succeeded in securing acceptance by the Committee. The regulation proposed provides for the insertion of the said jurisdictional clause in the text of the Conventions of both the Unions, but any Union country will have the option of declaring, when signing or ratifying the Stockholm Act, that it does not regard itself as bound by this clause, in which case reciprocity will apply in respect of any Union country not availing itself of this option.

21. The general question of reservations in regard to certain provisions of the Berne Convention had been settled in Article 25ter of the Programme of the Conference (document S/9). It therefore fell to the Committee to consider this matter. The question of reservations in regard to the right of translation had, however, been examined in its substantive aspects by Main Committee I, which had expressed itself in favor of retaining in the Stockholm Act the provision contained in Article 25(3) of the Brussels Convention; that clause states that notification of accession to the new Act by countries outside the Union could specify that the acceding countries wished to substitute, provisionally at least, for the provisions relating to the exclusive right of translation those of Article 5 of the Convention of the Union revised at Paris in 1896.

A proposal in this connection had been submitted previously by the Italian Delegation to Main Committee I, seeking to combine the possible maintenance of the right of reservation in favor of countries outside the Union which might have acceded to the Stockholm Act with an option by which States not entering a reservation could apply, in this connection, the principle of material reciprocity in their relations with States intending to avail themselves of such a right of reservation. At a joint session of the two Main Committees I and IV, under the chairmanship of Mr. Ulmer, the question was reconsidered, and the above compromise proposal was accepted, so that a provision to this effect was added to Article 25ter(2) of the Programme. On the other hand, the situation in regard to reservations in respect of translation will remain unchanged as far as those Union countries are concerned which have already made reservations (Article 27(2) under the Berne Convention; Article 25ter(2)(a) of the Programme) and which, when ratifying the Stockholm Act, may still wish to avail themselves of reservations formulated previously.

22. Some draft resolutions concerning certain transitional measures in the field of administrative reforms (document S/11) and concerning, firstly, the Paris Union, secondly, the Berne Union, thirdly, the General Assembly and the Coordination Committee of the proposed new Intellectual Property Organization as well as certain joint questions were withdrawn by BIRPI. Mr. Braderman, the Chairman of Main Committee V, announced in the course of a joint meeting with Main Committee IV that he had been asked to take the chair. As no delegation took up these proposals, our Committee had no other opportunity to continue their discussion. It is therefore understood that until the various Conventions enter into force, the administrative position of the Unions will remain as at present determined by the Acts now in force and by their application in practice. As soon as the new structural regulations of the Unions enter into force, some of the institutions of the Unions at present existing, such as the Conferences of Representatives established by Article 14(5) of the Lisbon Act for the Paris Convention, and the Permanent Committees of the Union set up by a resolution of the Brussels Revision Conference for the Berne Convention, will obviously cease to exist.

23. As we have alredy noted in this report, the Swiss Government will continue to exercise its supervisory functions not only until the entry into force of the various Conventions signed at Stockholm but, beyond that date, in respect of the States members of the Unions that are still not members of the World Intellectual Property Organization, in parallel with the Assemblies of both Unions. In that respect the joint meeting paid further tribute to Switzerland which, after having exercised with the greatest dignity for nearly a century functions that have enabled the Unions to be wisely administered, now accepts a further, though slightly reduced, role in this field.

Valerio de SANCTIS

July 9, 1967

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 9, 1967 N° S/289
Subject (Union): Berne
Original: English/French
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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (Document S/1)

Texts proposed by the Secretariat to the Drafting Committee

(Addendum to Document S/269)

Article 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

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

(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

Article 9bis

It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press or the broadcasting of articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character, in cases in which the reproduction or the broadcasting thereof is not expressly reserved. Nevertheless, the source

must always be clearly indicated; the legal consequences of a breach of this obligation shall be determined by the legislation of the country where protection is claimed.

Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of words, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work; but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the author's right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) and (3) No change.

Article 14bis

(2) . . . .

(c) The form of the undertaking referred to above, which any country of the Union may require to be in a written agreement or something having the same force, shall be governed by the legislation of the country where protection is claimed.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work nor to the principal director thereof. However, those countries of the Union, whose legislation contains provisions excluding such director from the application of the said paragraph (2)(b shall notify the ... by means of a written declaration which will be immediately communicated by him to all the countries of the Union.

Draft Resolution (II)

Last paragraph:

Expresses the wish that the International Bureau of the Berne Union should undertake a study of the above questions, in order to consider the inclusion of provisions relating to them in a future revision of the Convention.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

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(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

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

(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

Article 10bis

New Paragraph:

(1) It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press, the broadcasting or the communication to the public by wire, of articles published in newspapers or periodicals on current economic, political or religious topics, and of broadcast works of the same character, in cases in which the reproduction, broadcasting or such communication

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thereof is not expressly reserved. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation shall be determined by the legislation of the country where protection is claimed.

Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any words, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work, together with such words, if any; but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the rights of these authors to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) and (3) No change.

Article 14bis

(2) . . . . .

(c) The form of the undertaking referred to above, which any country of the Union may require to be in a written agreement or something having the same force, shall be governed by the legislation of the country where protection is claimed.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work nor to the principal director thereof. However, those countries of the Union, whose legislation does not contain provisions applying to such director, the said paragraph shall notify the ..... by means of a written declaration which will be immediately communicated by him to all the countries of the Union.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/291
Subject (Union): Paris
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

MEMORANDUM OF THE DRAFTING COMMITTEE OF MAIN COMMITTEE IV

It is proposed to add the following paragraph to Article 27:

(3) Countries outside the Union, which become parties to this Act, shall apply it with respect to any country of the Union not a party to this Act or which, although a party to this Act, has made a declaration pursuant to Article 20(1)(b)(i). Such countries recognize that the said country of the Union may apply, in its relations with them, the provisions of the most recent Act to which it is a party.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/292
Subject (Union): Berne
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

MEMORANDUM
of the Drafting Committee
of Main Committee IV

It is proposed to insert a paragraph (which will bear the number (2)) between paragraphs (1) and (2) of Article 32 (formerly Article 31):

"(2) Countries outside the Union, which become parties to this Act, shall, subject to the provisions of paragraph (3)*, apply it with respect to any country of the Union not a party to this Act or which, although a party to this Act, has made a declaration pursuant to Article 25(1)(b)(i). Such countries recognize that the said country of the Union, in its relations with them:

(i) may apply the provisions of the most recent Act to which it is a party, and

(ii) has the right to adapt the protection to the level provided for by this Act.

* formerly paragraph (2).

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/293
Subject (Union): Berne
Original: French/English
Distribution: Main Committee IV

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION

PROPOSAL BY THE DRAFTING COMMITTEE
OF MAIN COMMITTEE IV

Add to Article 25, paragraph 2, a new sub-paragraph:

(d) The Protocol may be applied, pursuant to its Article 5, from the date of signature of this Act.

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BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/294
Subject (Union): Madrid (Trademarks), Nice, Lisbon
Original: French
Distribution: Main Committee IV

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

This Document does not exist in English.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 NS/295
Subject (Union): General
Original: French
Distribution: General

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

REPORTS OF THE CREDENTIALS COMMITTEE TO THE PLENARIES

1. The Credentials Committee established in accordance with Rule 9 of the Rules of Procedure of the Conference, and composed of the following States: Bulgaria, France, Ireland, Italy, Japan, Mexico, the Netherlands, Sweden, Switzerland, United States of America, Union of Soviet Socialist Republics and Venezuela, held three meetings, on June 17, July 6 and July 10, 1967.

2. In conformity with Rule 15, paragraph (5) of the aforesaid Rules of Procedure, the Committee, at its first meeting, elected its officers.

3. On a proposal submitted by the Delegate of Italy and supported by the Delegates of the Netherlands and the Union of Soviet Socialist Republics, H.E. Mr. Bernard de Menthon, Head of the Delegation of France, was unanimously elected Chairman of the Committee.

4. On a proposal submitted by the Delegate of the United States of America and supported by the Delegates of Sweden and the Soviet Union, H.E. Mr. Michitoshi Takahashi, Head of the Delegation of Japan, was unanimously elected Vice-Chairman of the Committee.

5. The Delegate of the Netherlands raised the question whether a distinction should be made between credentials conferring in a general way the right of representation at or participation in the Conference and credentials making express mention of the right to sign the Acts of Conventions and Agreements.

6. The Committee expressed the opinion that its duties were confined to ascertaining whether the credentials submitted were in order, that is to say whether they had been issued by the Head of the State or Government, or by the Minister for Foreign Affairs (Rule 6 of the Rules of Procedure of the Conference). It considered that it was for each Head of Delegation to determine whether the credential conferring a general right of representation or participation implied, or not, all the prerogatives deriving therefrom: the right to speak, the right to vote, up to and including the right to sign.

7. After examining the credentials that had been communicated to the Secretary General of the Conference, the Committee, in conformity with Rule 8, paragraph (1) of the Rules of Procedure of the Conference, submits the following separate reports for each Plenary.

Plenary of the Conference

8. The Committee recognized as valid the credentials communicated by the following States:

Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Congo (Brazzaville), Congo (Kinshasa), Cuba, Czechoslovakia, Denmark, Ecuador, Finland, France, Gabon, Germany (Federal Republic), Greece, Guatemala, Holy See, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Korea, Liechtenstein, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Nicaragua, Niger, Norway, Peru, Philippines, Poland, Portugal, Rumania, Senegal, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Plenary of the Berne Union

9. The Committee recognized as valid the credentials communicated by the following States:

Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Congo (Brazzaville), Congo (Kinshasa), Czechoslovakia, Denmark, Finland, France, Gabon, Germany (Federal Republic), Greece, Holy See, Hungary, India, Ireland, Israel, Italy, Ivory Coast, Japan, Liechtenstein, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Philippines, Poland, Portugal, Rumania, Senegal, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Yugoslavia.

Plenary of the Paris Union

10. The Committee recognized as valid the credentials communicated by the following States:

Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, Congo (Brazzaville), Cuba, Czechoslovakia, Denmark, Finland, France, Gabon, Germany (Federal Republic), Greece, Holy See, Hungary, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Liechtenstein, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Philippines, Poland, Portugal, Rumania, Senegal, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia.

Plenary of the Madrid Union (Trademarks)

11. The Committee recognized as valid the credentials communicated by the following States:

Austria, Belgium, Czechoslovakia, France, Germany (Federal Republic), Hungary, Italy, Liechtenstein, Luxembourg, Monaco, Morocco, Netherlands, Portugal, Rumania, Spain, Switzerland, Tunisia, Yugoslavia.

Plenary of the Madrid Agreement (Indications of Source)

12. The Committee recognized as valid the credentials communicated by the following States:

Brazil, Cuba, Czechoslovakia, France, Germany (Federal Republic), Hungary, Ireland, Israel, Italy, Japan, Liechtenstein, Monaco, Morocco, Poland, Portugal, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland.

Plenary of the Union of The Hague

13. The Committee recognized as valid the credentials communicated by the following States:

Belgium, France, Germany (Federal Republic), Holy See, Indonesia, Liechtenstein, Monaco, Morocco, Netherlands, Spain, Switzerland, Tunisia.

Plenary of the Nice Union

14. The Committee recognized as valid the credentials communicated by the following States:

Australia, Belgium, Czechoslovakia, Denmark, France, Germany (Federal Republic), Hungary, Ireland, Israel, Italy, Monaco, Morocco, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Yugoslavia.

Plenary of the Lisbon Union

15. The Committee recognized as valid the credentials communicated by the following States:

Cuba, Czechoslovakia, France, Hungary, Israel, Mexico, Portugal.

Plenary of IPO

16. The Committee recognized as valid the credentials communicated by the following States:

Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Congo (Brazzaville), Congo (Kinshasa), Cuba, Czechoslovakia, Denmark, Ecuador, Finland, France, Gabon, Germany (Federal Republic), Greece, Guatemala, Holy See, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Korea, Liechtenstein, Luxembourg, Madagascar, Mexico, Monaco, Morocco, Netherlands, Nicaragua, Niger, Norway, Peru, Philippines, Poland, Portugal, Rumania, Senegal, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

17. The Committee observed that three States (Chile, Dominican Republic and Ethiopia) were taking part in the Conference only in the capacity of observers and were therefore not required to submit credentials.

18. Finally, at its last meeting, the Committee noted that credentials had not yet been submitted by the following States:

Colombia, Iceland, Lebanon, Uganda, United Arab Republic, Togo.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/296
Subject (Union): Berne
Original: French and English
Distribution: Plenary - Berne

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

RESOLUTION

The Intellectual Property Conference of Stockholm,

Considering that certain countries have expressed a desire for the general term of protection of literary and artistic works to be extended,

that certain countries already grant a term of protection in excess of fifty years after the death of the author,

that, moreover, several countries of the Union have extended the term of protection, for reasons resulting from the war,

that negotiations have already taken place at international level with the object of providing for an extension of the term of protection by a special agreement,

that, in addition, bilateral agreements have already been concluded between certain countries for the reciprocal application of extensions of terms of protection, for reasons resulting from the war,

Expresses the wish that negotiations should be pursued between the countries concerned for the conclusion of a multilateral agreement on the extension of the term of protection in countries parties to that agreement.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/297
Subject (Union): Berne
Original: French & English
Distribution: Plenary-Berne

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

RESOLUTION

The Intellectual Property Conference of Stockholm,

Having before it proposals to insert in the Berne Convention provisions under which

(i) the publisher of a literary, dramatico-musical or musical work published in a country of the Union should be under an obligation to deposit with the national library of that country, or with some other similar establishment, a facsimile of the earliest and most authentic copy of such work in the form approved by its author;

(ii) it should be a matter for the legislation of the countries of the Union to provide that, where a dramatico-musical or musical work has been made available to the public with the consent of the author thereof, the graphic copies of the said work should also be made accessible to the public without restrictions contrary to fair practice;

Considers sympathetically the spirit and purpose of these proposals, subject always to the protection of the rights of authors of such works; and

Expresses the wish that the International Bureau of the Berne Union should undertake a study of the above questions, in order that consideration may be given to the possibility of including provisions relating to them in a future revision of the Convention.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/298
Subject (Union): General
Original: English
Distribution: Plenary Conference

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

FINAL ACT OF THE CONFERENCE

It is customary, in larger Diplomatic Conferences, to draw up a "Final Act."

Several Delegations, not having powers to sign the Conventions and Agreements, have asked the host Government and the Secretariat to draw up a "Final Act."

Such a "Final Act" does not contain any obligation for the Governments. Consequently, it is customary for all Delegations participating in the Conference to sign it.

The "Final Act" will be presented for signature at the same time as the Conventions and Agreements, that is, on Friday, July 14, at 3 p.m. at the Royal Ministry for Foreign Affairs.

The text of the "Final Act" appears on the reverse side of this page.

FINAL ACT

1. THE "INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, /67,"

PREPARED by the Government of Sweden and the United International Bureaux for the Protection of Intellectual Property (BIRPI),

CONVENED by the Government of Sweden,

WAS HELD at Stockholm from June 11 to July 14, 1967, in the Building of the Swedish Riksdag.

2. THE STATES party to the Berne and Paris Conventions and the Special Agreements concluded under the latter revised the said Conventions and Agreements, made various decisions, and adopted several recommendations.

3. THE CONFERENCE adopted the Convention establishing th World Intellectual Property Organization.

IN WITNESS WHEREOF, the undersigned, being Delegate invited to the Conference, have signed this Final Act.

DONE at Stockholm, on July 14, 1967, in the F English, Spanish and Russian languages, the orig deposited with the Government of Sweden.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 11, 1967 N° S/298/Corr.
Subject (Union): General
Original: English
Distribution: Plenary Conference

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

CORRIGENDUM TO DOCUMENT S/298

The penultimate paragraph should read as follows:

"IN WITNESS WHEREOF, the undersigned, being Delegates of States invited to the Conference, have signed this final Act."

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 10, 1967 N° S/299
Subject (Union): Berne Union
Original: French
Distribution: Main Committee I

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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

BERNE CONVENTION (Document S/1)

Article 14bis, paragraph (2)(c) (New draft)

(c) The question whether or not the form of the undertaking referred to above should, for the application of the preceding sub-paragraph (b), be in a written agreement or a written act of the same effect, shall be a matter for the legislation of the country where the maker of the cinematographic work has his headquarters or habitual residence. However, it shall be a matter for the legislation of the country of the Union where protection is claimed to provide that the said undertaking shall be in a written agreement or a written act of the same effect. The countries whose legislation so provides shall notify the Director General by means of a written declaration which will be immediately communicated by him to all the other countries of the Union.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 12, 1967 N° S/300
Subject (Union): All Unions
Original: English-French
Distribution: General

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

JOINT STATEMENT OF DEVELOPING COUNTRIES AS DEFINED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS REPRESENTED AT THE STOCKHOLM CONFERENCE

The Delegations of Argentina, Brazil, Cameroon, Central African Republic, Colombia, Congo (Kinshasa), Dominican Republic, Ecuador, Guatemala, Iran, Madagascar, Mexico, Morocco, Niger, Peru, Senegal, Togo and Uruguay,

TRUSTING in the will expressed to open new horizons to the full participation of developing countries in the field of intellectual property, which would in its turn permit the attainment of the universality indispensable to its protection;

WISHING to express a similar spirit of cooperation so as to ensure that the legitimate interests of the main holders of intellectual property are protected;

CONSIDERING that a valid dialogue between holders and users of intellectual property depends, in particular, on the immediate and fair accomplishment by the International Bureau of certain provisions of the Acts adopted at Stockholm;

EXPRESS THE WISH that the International Bureau, in the exercise of its tasks and functions, take into account as of now the following cardinal principles:

(1) The recruitment of personnel and the distribution of posts within the Secretariat must necessarily follow the rule of equitable geographical distribution. This rule must apply not only to the existing structure but especially to the new structure which has been approved; further, it must apply to the levels known as "professional" and the "direction."

(2) In the field if technical-legal assistance, a program should be established, the scope of which is to be approved by the Executive Committee of the

Unions within the limits of their budgets, and which should focus on the training of Government officials by means of a system of scholarships and training periods and also through convening regional and inter-regional seminars in accordance with the practice of the United Nations and its Specialized Agencies.

(3) Due to the close relationship which intellectual property, in its dual aim of protection and propagation, has with the objectives of certain other international organizations, it is of the utmost importance that the International Bureau immediately conclude agreements for cooperation with these organizations. In addition, the International Bureau should regularly send representatives to attend their meetings. Apart from the already established coordination with UNESCO in the field of Copyright, it is essential that the International Bureau should establish close ties with UNCTAD and UNIDO in the field of the transfer of technology to developing countries.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 12, 1967 N° S/301
Subject (Union): Berne
Original: French
Distribution: Main Committee II

INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

FINAL VERSION OF REPORT OF MAIN COMMITTEE II

(originally issued as document S/270/Rev. with Corrigendum)

1. The protection of authors' rights in countries that have recently gained independence is one of the problems that has solicited the attention of the Swedish Government as the host country of the Revision Conference and that of BIRPI for several years. The history of the preparatory studies and proceedings is to be found in document S/1 (pages 67 to 74).

2. After the publication of document S/1, there was an important event in this domain, whose influence has been apparent both on the discussion and on the results of the Conference. We refer to the East Asian Seminar on Copyright, which was held at New Delhi in January, 1967.

3. At the proposal of the Government of Sweden, a Main Committee was set up to produce a definitive text on the basis of document S/1. This Main Committee --referred to in the Conference documents as Main Committee II--met ten times. It appointed two Working Groups for certain special problems, one to consider basic matters (Chairman: Mr. Hesser (Sweden); members: Czechoslovakia, France, India, Ivory Coast, Tunisia, United Kingdom), and the other to consider the definition of the criterion of countries that would have the right to avail themselves of this Protocol (Chairman: Mr. Lennon (Ireland); members: Brazil, Congo (Kinshasa), Czechoslovakia, France, India, Italy, Ivory Coast, Senegal, Sweden, Tunisia, United Kingdom).

4. Several amendments were submitted with respect to the definition of countries beneficiaries of the Protocol mentioned in the Preamble to the first article of the Protocol with a view to the clarification of the general formula: the object of a proposal by France (document S/176) was to make countries that acceded to the Berne Union only after the signing and entry into force of the Brussels Convention beneficiaries of the provisions of the Protocol; a proposal by Italy (document S/213) introduced technical criteria (illiteracy, school attendance) into the idea of a developing country; two proposals, one by the United Kingdom (document S/149), and the other by Denmark, Finland, Norway and Sweden (document S/253), suggested as a solution an international authority competent to decide in each case (the Executive Committee of the Berne Convention in the former and the General Assembly of the United Nations in the latter proposal). After discussion the

Working Group proposed to Main Committee II a text referring to Resolution No. 1897 (XVIII) adopted by the General Assembly of the United Nations at its eighteenth session on November 13, 1963,for application to any country subsequently designated a developing country. A proposal of the Ivory Coast (document S/234) brought that list up to date by adding seven new African States to it.

5. The Committee dealt with the question and, while accepting the idea that the countries listed in the Annexes to document S/249 should be beneficiaries of the additional Protocol, it noted that simple reference to the decisions of the United Nations would entail a delay for countries that had recently gained their independence that would prevent them from acceding to the Convention and the Protocol immediately or at least before a decision by the United Nations. A more flexible wording was sought. A joint proposal of the Delegations of Denmark, Finland, Norway and Sweden submitted in document S/253 stipulated that a developing country would be considered to be any country designated as such under the established practice of the General Assembly of the United Nations, it being understood that the term "established practice" implies that the country concerned receives assistance from the United Nations Development Programme through the United Nations or its Specialized Agencies. The country which considers that it is in a position to have recourse to the Protocol shall notify the Director General of ....., who shall, if necessary, after consultation with the organs of the United Nations, communicate the notification to the other countries Members of the Union together with his observations. The final text was produced by the Drafting Committee of Main Committee II under the chairmanship of Mr. Essen (Sweden) (members: Mr. Abi-Sad (Brazil), Mr. Strnad (Czechoslovakia), Mr. Desbois (France), Mr. Krishnamurti (India), Mr. Ciampi (Italy), Mr. Amon d'Aby (Ivory Coast), Mr. Goundian (Senegal), Mr. Fersi (Tunisia), Miss White (United Kingdom)). The text was adopted by Main Committee II at its final meeting.

6. The substantive provisions were also examined on the basis of document S/1 submitted by the Government of Sweden and BIRPI. The order of the items included in the Protocol was altered by the Drafting Committee so that the provisions concerning the period of protection--following the system of the Convention itself--were put before the substantive questions; the others were inserted after the latter. In the course of the proceedings of the Conference they underwent the following changes.

7. As an outcome of the insertion of Article 9, paragraph (2) of the Rome Convention of 1928 and the Brussels Convention of 1948 in a new draft of the text of the Convention itself, in which it appears as Article 10bis(1), this article mentioned in paragraph (c) in Article 1 of document S/1, became superfluous in the Protocol and was deleted.

8. A group of countries (Congo (Brazzaville), Congo (Kinshasa), Gabon, India, Ivory Coast, Madagascar, Morocco, Niger, Senegal and Tunisia) submitted a new drafting of the text of the Protocol (document S/160), stemming from document S/1 and adopting its scheme, but adding certain new features.

9. The term of protection has been decided without change in the manner proposed by the Government of Sweden with the assistance of BIRPI. The term of protection may therefore be fixed by domestic legislation at a period less than the compulsory term of fifty years referred to in

Article 7 of the Convention.

10. The translation license combines the translation license referred to in Articles 25 and 27 of the Convention (Brussels text) and traditional in the Berne Union with certain elements of the license referred to in Article 5 of the Universal Copyright Convention; the definition of the languages into which the translation may be made has been clarified.

11. Several proposals were submitted for regulating the regime of published works on the basis of a legal license (the proposals of Italy, document S/162; of Denmark, document S/146; of Greece, document S/181; and of Israel, document S/199). Japan made a proposal in document S/127 for simplification of the translation license by simply taking over the system as it existed in the Berne Convention.

12. The result of the proceedings of the Working Group and of Main Committee II, which is set out in document S/249, corresponds with certain slight alterations to the desire to replace the text of Article 5 of the Paris Convention of 1896 quoted in paragraph (a) of Article 1 of the Protocol by an up-to-date wording without basically affecting even the provisions in force.

13. The principles of the Universal Copyright Convention (see Article 5(2) and (5)), which enter into the system of the translation license provided for by the Protocol (Article 1, paragraph (b)(iv)) have also undergone modification: the compensation stipulated should be just and the explicit reference to international usage in this matter was deleted; the transmittal of such compensation, also referred to in the above article of the Universal Copyright Convention, is made subject to national currency regulations by the text of the additional Protocol.

14. It should be noted that neither of the International Conventions that might be regarded as having served as a model for paragraph (b) of the first article of the Protocol stipulates precisely where a translation must be published by the author himself if he does not wish a legal license to come into force. Article 5 of the Paris Convention of 1896 merely stipulates that the publication of such a translation must take place in a country of the Union. The additional Protocol adds an important clarification: the translation must be published in the country invoking the reservation concerning the translation license. Publication does not mean printing in the strict sense; this is an essential distinction for countries that do not possess even the technical means needed to publish translations or reproductions under the conditions laid down by the additional Protocol.

15. The proposals on the right of reproduction contained in paragraph (1)(e) of document S/1, corresponding to paragraph (1)(c) of the final text, have undergone profound modification. After discussion and examination of the various proposals (see the proposal of the United Kingdom, document S/149, paragraph (3) and the joint proposal of ten developing countries, document S/160), the Working Group proposed the text contained in document S/249, Article 1, paragraph (d). The final solution adopted for this reproduction license is a copy of the translation license to the extent that the analogy is possible. It provides for the possibility of the introduction of a reproduction license for educational or cultural purposes--the wording should not be interpreted in a restrictive manner, given

that the addition "exclusively for ..... purposes ....." was intentionally deleted.

16. On the other hand, restriction of the right of reproduction to educational or cultural purposes excludes from the field of application of this reservation all works whose educational or cultural purpose is not evident; as an example, detective and adventure stories were mentioned in the discussion.

17. The procedure to be followed in order to obtain such a license, the conditions concerning payment of the compensation, the place of publication, respect for the right of the author to change his mind, and the possibility of having recourse to such a license even after the copies of the original edition of the work are out of print have been established on the same basis as for translations.

18. Paragraph (d) of the first article of the additional Protocol, which concerns the radio-diffusion of literary and artistic works, permits the countries beneficiaries of the Protocol to substitute for paragraph (1) and paragraph (2) of Article 11bis of this Convention the text of the Rome Convention of 1928 with two changes. The first, which represents a modernization of the text, is to replace the words "communication by radio-diffusion" of the Rome Convention of 1928 by the word "radio-diffusion". The second change settles a basic matter: the public communication of broadcast works for profit-making purposes shall not be permitted except on payment of equitable remuneration fixed, in the absence of agreement, by competent authority. That addition takes over the wording of the proposal by the Delegation of the United Kingdom (document S/149, paragraph (2)).

19. A new possibility for restriction open to domestic legislation has been adopted for uses destined exclusively for teaching, study and research in all fields of education. It should be noted that that reservation does not apply solely to the right of translation and reproduction; it may also be invoked equally for the other uses of literary and artistic works. A new formula has been inserted for the determination of compensation, by which the latter shall "conform to standards of payment made to national authors". The addition of the words "in all fields of education" and the exclusivity of the purposes for which the reservation can be utilized indicate that industrial or commercial research or research of the same nature is outside the scope of this reservation.

20. In the case of copies of works translated and reproduced on the basis of the reservations in a country availing itself of the additional Protocol, the general principle adopted is that their export and sale are not permitted in a country not availing itself of these reservations. The prohibition does not apply if the legislation of a country which cannot avail itself of the additional Protocol, or the agreements concluded by that country, authorize such importation. The reference to national legislation and to agreements concluded has been replaced, in the case of works mentioned in Article 1(e), by the condition of the agreement of the author. In the same paragraph it has been made clear that only copies of a work published in a country for the said educational purposes may be imported and sold in other countries availing themselves of the reservations; the effect, therefore, is that such copies will be in a language relevant to the educational needs of that country. An example quoted in the discussions was that of a translation made in India which could be imported into Ceylon but not into Japan.

21. The above reservations may be maintained for ten years from the time of ratification by the country concerned (see paragraph (1) (in fine)); countries that do not consider themselves in a position to withdraw the reservations made under this Protocol, may continue to maintain them until they accede to the Act adopted by the next Revision Conference; the "maintaining of reservations" therefore implies that it will be essential for a declaration in that sense to be addressed to the Director General by the country concerned, and that in default thereof the reservations shall cease to be applicable. The country concerned would then be bound by the Convention itself. Various proposals made in the course of the Conference by the Delegations present, and concerning one or other of the problems mentioned above, have either been incorporated in the final text or withdrawn (see for example publication of serials, abridgements or translations in newspapers or periodicals, document S/160, or the provisions for the institution of certain measures of control over the application of the additional Protocol submitted by the Delegation of Israel, document S/199, or have found their place in a resolution (for example the creation of a fund intended for the authors of works affected by the reservations stipulated in the Protocol, as proposed by the Delegation of Israel, document S/228)).

22. Article 4 was added to the text as the result of a proposal by the United Kingdom which was adopted by Committee II at its eighth meeting. Even a developing territory judged by the same principles as sovereign countries which has not acceded to independence by the day on which the Convention is signed may enjoy the benefits of the additional Protocol.

23. With regard to this article, the Delegations of Czechoslovakia, India, Israel and Tunisia made statements evidencing their opposition in principle to clauses of this kind in Conventions. In a plenary Assembly of the Berne Union this article was expanded to indicate that the declaration referred to in this paragraph could be made only by a country bound by the Protocol.

24. The reference to the practice established by the United Nations made it necessary to solve the problem of the legal consequences of a contrary situation, namely to deal with the case of a country to which the status of developing country ceases to be applicable. The solution proposed by the Drafting Committee is that this country will no longer be able to avail itself of the Protocol at the expiry of a period of six years from the appropriate notification.

25. To provide a possibility for developing countries to benefit immediately from the additional Protocol, an Article 5 has been added to the text, offering this possibility even before the text of the Convention itself has been ratified within the meaning of Article 25(1)(b)(i).

26. Another question that was the subject of consideration by the developing countries in the course of the preparatory proceedings, that of the protection of folklore, was resolved by Article 15, paragraph (3) of the Convention itself.

Vojtěch STRNAD

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 14, 1967 N° S/302
Subject (Union): Paris
Original: French
Distribution: Paris Plenary

INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

STOCKHOLM ACT OF THE PARIS CONVENTION

1. The Plenary of the Paris Union adopted, on July 12, 1967, the Stockholm Act of the Paris Convention.

2. That Act shall be signed only in French.

3. The present document contains a provisional English translation of those portions of the Stockholm Act which differ from the Lisbon Act, namely:

- Article 4.-I. (This is an addition to the Lisbon Act.)
- Articles 13 to 30. (These Articles replace Articles 13 to 19.)

ARTICLE 4

1.-(1) Applications for inventors' certificates filed in a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate shall give rise to the right of priority provided for by this Article, under the same conditions and with the same effects as applications for patents.

(2) In a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate, an applicant for an inventor's certificate shall, in accordance with the provisions of this Article relating to patent applications, enjoy a right of priority based on an application for a patent, a utility model or an inventor's certificate.

ARTICLE 13

(1)(a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 13 to 17.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;

(ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as the "International Bureau") referred to in the Convention establishing the World

Intellectual Property Organization (hereinafter designated as the "Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 13 to 17;

(iii) review and approve the reports and activities of the Director General of the Organization concerning the Union and give him all necessary instructions concerning matters within the competence of the Union;

(iv) elect the members of the Executive Committee of the Assembly;

(v) review and approve the reports and activities of its Executive Committee, and give instructions to such Committee;

(vi) determine the program and adopt the triennial budget of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees of experts and working groups as may be necessary for the work of the Union;

(ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) adopt amendments to Articles 13 to 17;

(xi) take any other appropriate action designed to further the objectives of the Union;

(xii) exercise such other functions as are appropriate under this Convention;

(xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3)(a) Subject to the provisions of subparagraph (b), a delegate may represent only one country.

(b) Countries of the Union grouped under the terms of a special agreement in a common office possessing for each of them the character of a special national service of industrial property as referred to in Article 12 may be jointly represented during discussions by one of their number.

(4)(a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 17(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(5)(a) Subject to the provisions of subparagraph (b), a delegate may vote in the name of one country only.

(b) The countries of the Union referred to in paragraph (3)(b) shall, as a general rule, endeavor to send their own delegations to the sessions of the Assembly. If, however, for exceptional reasons, any such

country cannot send its own delegation, it may give to the delegation of another such country the power to vote in its name, provided that each delegation may vote by proxy for one country only. This power to vote shall be granted in a document signed by the Head of State or the competent Minister.

(6) Countries of the Union not members of the Assembly shall be admitted to its meetings as observers.

(7)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(8) The Assembly shall adopt its own rules of procedure.

ARTICLE 14

(1) The Assembly shall have an Executive Committee.

(2)(a) The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 16(7)(b), have an ex officio seat on the Committee.

(b). The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements established in relation with the Union to be among the countries constituting the Executive Committee.

(5)(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but not more than two-thirds of them.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union, prepared by the Director General;

(iii) approve, within the limits of the program and the triennial budget, the specific yearly budgets and programs prepared by the Director General;

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director General;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(8)(a) Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules of procedure.

ARTICLE 15

(1)(a) The administrative tasks with respect to the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Literary and Artistic Works.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of industrial property. Each country of the Union shall promptly communicate to the International Bureau all new laws and official

texts concerning the protection of industrial property. It shall furnish to the International Bureau all the publications of its industrial property service of direct concern to the protection of industrial property and which the International Bureau may find useful in its work.

(3) The International Bureau shall publish a monthly periodical.

(4) The International Bureau shall, on request, furnish information to any country of the Union on matters concerning the protection of industrial property.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of industrial property.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be ex officio secretary of these bodies.

(7)(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conferences of revision of the provisions of the Convention other than Articles 13 to 17.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 16

(1)(a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Union shall be financed from the following sources:

(i) contributions of the countries of the Union;

(ii) fees and charges due for services performed by the International Bureau in relation to the Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4)(a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contributions on the basis of a number of units fixed as follows:

Class I	25
Class II	20
Class III	15
Class IV	10
Class V	5
Class VI	3
Class VII	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions shall have no vote in any of the organs of the Union of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(f) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(6)(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7)(a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an ex officio seat on the Executive Committee.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 17

(1) Proposals for the amendment of Articles 13, 14, 15, 16, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 13, and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 18

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For this purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Amendments to Articles 13 to 17 are governed by the provisions of Article 17.

ARTICLE 19

It is understood that the countries of the Union reserve the right to make separately between themselves special agreements for the protection of industrial property, in so far as these agreements do not contravene the provisions of this Convention.

ARTICLE 20

(1)(a) Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification and accession shall be deposited with the Director General.

(b) Any country of the Union may declare in its instrument of ratification or accession that its ratification or accession shall not apply:

(i) to Articles 1 to 12, or
(ii) to Articles 13 to 17.

(c) Any country of the Union which, in accordance with subparagraph (b), has excluded from the effects of its ratification or accession one of the two groups of Articles referred to in that subparagraph may at any later time declare that it extends the effects of its ratification or accession to that group of Articles. Such declaration shall be deposited with the Director General.

(2)(a) Articles 1 to 12 shall enter into force, with respect to the first ten countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(i), three months after the deposit of the tenth such instrument of ratification or accession.

(b) Articles 13 to 17 shall enter into force, with respect to the first ten countries of the Union which have deposited instruments of ratification or accession without making the declaration permitted by paragraph (1)(b)(ii), three months after the deposit of the tenth such instrument of ratification or accession.

(c) Subject to the initial entry into force, pursuant to the provisions of subparagraphs (a) and (b), of each of the two groups of Articles referred to in paragraph (1)(b)(i) and (ii), and subject to the provisions of paragraph (1)(b), Articles 1 to 17 shall, with respect to any country of the Union, other than those referred to in subparagraphs (a) and (b), which deposits an instrument of ratification or accession or any country of the Union which deposits a declaration pursuant to paragraph (1)(c), enter into force three months after the date of notification by the Director General of such deposit, unless a subsequent date has been indicated in the instrument or declaration deposited. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country of the Union which deposits an instrument of ratification or accession, Articles 18 to 30 shall enter into force on the earlier of the dates on which any of the groups of Articles referred to in paragraph (1)(b) enters into force with respect to that country pursuant to paragraph (2)(a), (b) or (c).

ARTICLE 21

(1) Any country outside the Union may accede to this Act and thereby become a member of the Union. Instruments of accession shall be deposited with the Director General.

(2)(a) With respect to any country outside the Union which deposits its instrument of accession one month or more before the date of entry into force of any provisions of the present Act, this Act shall enter into force, unless a subsequent date has been indicated in the instrument of accession, on the date upon which provisions first enter into force pursuant to Article 20(2)(a) or (b); provided that:

(i) if Articles 1 to 12 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 1 to 12 of the Lisbon Act,

(ii) if Articles 13 to 17 do not enter into force on that date, such country shall, during the interim period before the entry into force of such provisions, and in substitution therefor, be bound by Articles 13 and 14(3), (4) and (5) of the Lisbon Act.

If a country indicates a subsequent date in its instrument of accession, this Act shall enter into force with respect to that country on the date thus indicated.

(b) With respect to any country outside the Union which deposits its instrument of accession on a date which is subsequent to, or precedes by less than one month, the entry into force of one group of Articles of the present Act, this Act shall, subject to the proviso of subparagraph (a), enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(3) With respect to any country outside the Union which deposits its instrument of accession after the date of entry into force of the present Act in its entirety, or less than one month before such date, this Act shall enter into force three months after the date on which its accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

ARTICLE 22

Subject to the possibilities of exceptions provided for in Articles 20(1)(b) and 28(2), ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

ARTICLE 23

After the entry into force of this Act in its entirety, a country may not accede to earlier Acts of this Convention.

ARTICLE 24

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3)(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in which it was included, and any notification given under such paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

ARTICLE 25

(1) Any country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country deposits its instrument of ratification or accession, it will be in a position under its domestic law to give effect to the provisions of this Convention.

ARTICLE 26

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

ARTICLE 27

(1) The present Act shall, as regards the relations between the countries to which it applies, and to the extent that it applies, replace the Convention of Paris of March 20, 1883, and the subsequent Acts of revision.

(2)(a) As regards the countries to which the pre nt Act does not apply, or does not apply in its entir ut to which the Lisbon Act of October 31, 1958, appli he latter shall remain in force in its entirety or to xtent that the present Act does not replace it by vir f paragraph (1).

(b) Similarly, as regards the countries to wh neither the present Act, nor portions thereof, nor the Lisbon Act applies, the London Act of June 2, 1934, sh remain in force in its entirety or to the extent that t present Act does not replace it by virtue of paragraph

(c) Similarly, as regards the countries to which neither the present Act, nor portions thereof, nor the Lisbon Act, nor the London Act applies, the Hague Act of November 6, 1925, shall remain in force in its entirety or to the extent that the present Act does not replace it by virtue of paragraph (1).

(3) Countries outside the Union which become party to this Act shall apply it with respect to any country of the Union not party to this Act or which, although party to this Act, has made a declaration pursuant to Article 20(1)(b)(i). Such countries recognize that the said country of the Union may apply, in its relations with them, the provisions of the most recent Act to which it is party.

ARTICLE 28

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may, at the time it signs this Act or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between such country and any other country of the Union, the provisions of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provisions of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

ARTICLE 29

(1)(a) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the English, German, Italian, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of differences of opinion on the interpretation of the various texts, the French text shall prevail.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments or made pursuant to Article 20(1)(c), entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Article 24.

ARTICLE 30

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the Bureau of the Union or its Director, respectively.

(2) Countries of the Union not bound by Articles 13 to 17 may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided under Articles 13 to 17 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

(3) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(4) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.

BIRPI
UNITED INTERNATIONAL BUREAUX
FOR THE PROTECTION
OF INTELLECTUAL PROPERTY

Date: July 14, 1967 N° S/302 Corr.
Subject (Union): Paris
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INTELLECTUAL PROPERTY
CONFERENCE OF STOCKHOLM, 1967

STOCKHOLM ACT OF THE PARIS CONVENTION

(Corrigendum of page 20)

The attached corrigendum replaces page 20 of Document S/302.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declarations included in such instruments or made pursuant to Article 20(1)(c), entry into force of any provisions of this Act, notifications of denunciation, and notifications pursuant to Article 24.

ARTICLE 30

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be deemed to be references to the Bureau of the Union or its Director, respectively.

(2) Countries of the Union not bound by Articles 13 to 17 may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided under Articles 13 to 17 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

(3) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(4) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property, of the Bureau of the Union shall devolve on the International Bureau of the Organization.