WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO)

RECORDS
OF THE
DIPLOMATIC CONFERENCE
FOR THE REVISION
OF THE BERNE CONVENTION
(Paris, July 5 to 24, 1971)
CONFERENCES DOCUMENTS

5. The revision proposals drawn up by the Permanent Committee of the Berne Convention reflect a realistic awareness of the important role played by culture in the emergence of the Berne Union. They are directly designed to stimulate the cultural development of those countries' populations by facilitating the use of copyright works for teaching and research. No one should deny that broadcasting is a predominant factor in this process of cultural development. It makes up for the deficiencies of other authors, disparages beyond normal school and university teaching hours, and contributes to post-school education. In the instruction it offers ranges from the most elementary literacies to the most advanced studies, of course, and it supplements all educational curricula from primary school to university. Hence it is unthinkable that the advantages it has been agreed to confer on developing countries should not be applicable to broadcasting in these countries.

II. Scrutiny of the revision proposals makes it clear, however, that broadcasting is not covered and is indeed implicitly, if not explicitly, excluded. Article 2 (2) of the Additional Act states unequivocally that a translation license will be granted only with a view to publishing the work in a given territory, and "where the translation is for reproduction", and this excludes translation either for broadcasting or for the lack of a "universal" license, since broadcasting does not constitute publication under the Berne Convention and the mention of recording for broadcasting purposes, though deemed a reproduction within the meaning of the Convention (Art. 9 (5)), is certainly not considered to be a reproduction "analogous to the printed form". The plain conclusion is that Article 2 of the Additional Act does not apply to broadcasting and it is considered "unenforceable". In other words, the Permanent Committee and merely results from the present proposal, Article 3 of the Universal Convention, should be remedied.

III. To be precise, what is needed is that the system of levies contemplated by Article 2 (1) of the Additional Act should be extended to broadcasting organisations which, "in order to have public interest works for their schools broadcast, do not "publish" those works within the meaning of the Berne Convention, as those works covered by our line of argument and making proposals, it is worth enquiring whether the practice of national copyright laws, in particular the teaching function in the developing countries, stand them of other provisions of the Berne Convention dealing with the transmission of works, "radio" and "television". Article 3 of the Additional Act has taken advantage of the possibilities opened up by the present revision.

1. The first provision which comes to mind in this connection is Article 11 (2), which allows compulsory licenses for the transmission of works, in particular those "adaptations" which make the broadcast "obsolete". The broadcasting organizations of course make the broadcast "obsolete" by the obstacles which might exist in the absence of a compulsory license, but the works provided by the needlework organization must be considered to be the case, as the may be, it would be necessary to institute a derogation from the principle of "one work, one royalty" of the existing 11 (2).

2. Article 11 (2) appears to solve the problem of the translation right, in the terms outlined in 1 above. If Article 11 (2) were now insufficient for the needs of broadcasting instruction, the problem would not arise, as the Stockholm Conference was unanimous in considering that this provision, as well as others, "virtually imply the possibility of using the work not only in the original form but also in translation". As has just been demonstrated, however, Article 11 (2) does not cover the real needs of broadcasting instruction, especially in developing countries, and thus, however literally it is interpreted with regard to translation of the work, it does not grant the broadcasting organization the same facilities as those contemplated by the Additional Act proposals for the benefit of graphic publishers. Once again, to maintain balance, and having regard to the specific role of broadcasting in the educational life of developing countries, the Additional Act requires supplementary provisions.

3. The same line of argument applies to the reference to "broadcasting records". Recording in national legislation may license certain reproductions for broadcasting purposes, provided that the works concerned are designed to illustrate teaching, etc. However, this limitation is impossible in the place of broadcasting in developing countries, where it has been developed in (a) above and equally applied to recordings intended for broadcasting since, after all, in this case is a mere technical medium of broadcasting. Hence Article 11 (2) does not provide the kind of precasting of records in the wider sense, in which the sitting of the broadcast is not the actual substance of the broadcast. Thus far this provision can provide a solution to the specific role of broadcasting in the educational life of developing countries, it appears to include a means by which it is impossible in the case of "one work, one royalty" of the existing 11 (2).
V. Article 2(1) of the Additional Act specifies that the rights which it institutes for the right of translation concern only works published in printed or analogous forms of reproduction. Accordingly, the rules regarding the right of translation instituted for the benefit of developing countries which are to be applied to an audio-visual work. However, under Article 3(7) the translation of such a work into a national language by an author who does not hold priority over the work, can also be made under this article. Supposing that for teaching purposes a developing country desires a translation of a work already translated into Chinese, this being a language in use in many developing countries, it may be translated into Chinese and, in accordance with Article 3(7), be translated into another national language, or they may be translated into the words of the Union added after which is not in general use in one or more developed countries.

VIII. Even if circumscribed in this way, however, the difference between world languages and other languages is still very great. The World Convention, including the Berne Convention revision proposals, particularly by Roy, which is the dominating single element in the procedure is a question of reproducing audio-visual works, but unjustified where it is in the national languages of the developing countries.

An additional provision is therefore necessary to cater for this need, particularly as television is, and will remain, the biggest consumer of audio-visual works for teaching purposes, until schools in developing countries begin to acquire equipment for viewing non-television audio-visual works, etc. audio-visual programs are essential to ensure the survival of the Berne Convention proposals, particularly by Roy, which is the dominating single element in the procedure is a question of reproducing audio-visual works, but unjustified where it is in the national languages of the developing countries. In the third place, it is necessary to rule out the possibility of a single country's national language being used for translation purposes. The Berne Convention proposes that only one national language be used for this purpose, but it means that a means should be found of mitigating the consequences to some extent. It believes that a means would be to provide in the Berne Convention that even the national languages should not be used in this manner. The Danish Government finds it desirable that this study should be pursued even after the Stockholm Protocol has been replaced by the new Additional Act. (Original: English)

ITALY

The Italian Administration expresses its approval, in principle, of the proposals for the revision of the Universal Copyright Convention and the Berne Convention, adopted by the First Committee of the U.N. General Assembly (Paris, September 2 to 19, 1970) and by the Permanente Committee of the U.N. General Assembly (October 14 to 18, 1970). Nevertheless, the Italian Administration considers it necessary to draw attention to the following points:

1. Concerning the Universal Copyright Convention:

(a) Article 9, paragraph 1:

Those provisions, as above explained, are not only desirable for the development of the Swiss Confederation, but also for the promotion of the national program of developing countries in the field of education and research and, on the other hand, the use of the means of communication by the public in the field of education and research, are in the interest of the public interest. The Italian Administration considers it desirable that the new Additional Act shall be made available to the public in the language of the country to which it is addressed, as a contribution to the promotion of the national program of developing countries in the field of education and research.

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The Government of the Federal Republic of Germany approves, in principle, of the provisions of the Universal Copyright Convention and the Berne Convention, adopted by the First Committee of the U.N. General Assembly (Paris, September 2 to 19, 1970) and by the Permanente Committee of the U.N. General Assembly (October 14 to 18, 1970). Nevertheless, the Italian Administration considers it necessary to draw attention to the following points:

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The Italian Administration furthermore points out that such a practice is not the one which is indicated in a similar provision contained in the Stockholm Protocol regarding the exchange of information.

In any event it does not appear desirable, still with respect to the national procedure for the treatment depending on the language — whether in general use or not — into which such information is translated, or into which the official language of the country in which the license is issued for.

It is considered, therefore, that a period of three years should be adopted, whatever may be the language of the country in which the license is issued for.

2. Article 28(2) (a) (3)

It is considered appropriate to confirm that the reservations contained in this paragraph should be regarded as concerning only those provisions of the Convention relating to the provisions in favor of developing countries: the reservations are indeed almost identical to those already contained in the draft and have the same objective and the same transitional and exceptional character.

3. Concerning the Berne Convention:

1. Article 2(3) of the draft Additional Act:

See paragraph (1) of the comments on the reservations for the revision of the Universal Copyright Convention.

2. Article 3(7) of the draft Additional Act:

See paragraph (2) of the comments on the proposals for the revision of the Berne Convention.

3. Finally, concerning both Conventions, the Italian Administration wishes to emphasize strongly the desirability of studying a form of link between the Conventions themselves.

(Opposite: French)

JAPAN

I. The Japanese Government favours in general the draft text for the Additional Act in accordance with Article 33(17) adopted by the Permanent Committee which met in Extraordinary Session in Geneva from September 14 to 18, 1970.

II. With respect to the proposed provisions of Articles 28, 34 and Articles 1, 2 and 3 of the Additional Act, the Japanese Government has the following comments:

1. Article 28(2) (a)

The proposed modification, which is assumed to be based upon the Washington Recommendation (II) and (III), would seem to be inconsistent with the fact that both the Berne and the Universal Copyright Conventions will be revised respectively to contain almost the same provisions for the benefit of developing countries as the proposed modifications.

2. Article 34, first sentence

It would be appropriate to reword the proposed provisions to contain the following exception: because, by the proposed modification, even after the date of the 1971 revised text, countries members of the Berne Union which had not acceded to the Stockholm Act in the meantime would be deprived of any possibility to accede to WIPO (Article 14 of its Convention):

"After the entry into force of Articles 1 to 3 of this Act including the provisions of paragraph (3) of this Convention, the accession of new members to the Berne Convention which was adopted in May, 1970 by the Additional Act to the Berne Convention and the accession of new members to the Stockholm Convention, on some points, the text was subsequently amended in a manner which seemed unsatisfactory to the Swedish Government. On other points, the text of the Swedish Government, that were not shared by the Permanent Committee. The Swedish Government finds it desirable, in the annexed provisions of the latter part of the same Act, to refer to some of the issues which were already raised in the comments of 7th July, 1970 and at the same time to deal with certain new points to be raised in a similar draft to this solution, in particular since it may be difficult to determine whether or not a work carried on in a developing country.

3. Article 2, paragraph (3)

The clause "a language which is not in general use in one or more of the countries" is likely to cause difficulties in the application of the Convention; it would be appropriate to mention definitely, for example, "a language other than the English, French, Spanish, Italian language."

(Opposite: English)

NETHERLANDS

Objections have been raised in various quarters concerning Article 1(4) of the draft text of the Additional Act. In terms of this provision, copies of a work which are made under the reservation provided for in the Additional Act may continue to be distributed after expiration of the period for which the reservation was made. Some commentators have drawn attention to the fact that it would be extremely difficult, and sometimes impossible, to determine whether the right of reproduction is respected after expiration of the period in question. The remark could be made with regard to Article 28 of the Berne Convention.

The Government of the Netherlands considers that this objection should be met by providing in Article 1(4) and 3(6), a time limit within which the distribution of copies made under licence must be effective.

(Opposite: French)

SWEDEN

1. In its comments of 7th July, 1970, the Swedish Government observed that the provisions for the revision of the Berne Convention which was adopted in May, 1970 by the Additional Act to the Berne Convention was subsequently amended in a manner which seemed unsatisfactory to the Swedish Government. On other points, the text of the Swedish Government, that were not shared by the Permanent Committee. The Swedish Government finds it desirable, in the annexed provisions of the latter part of the same Act, to refer to some of the issues which were already raised in the comments of 7th July, 1970 and at the same time to deal with certain new points to be raised in a similar draft to this solution, in particular since it may be difficult to determine whether or not a work carried on in a developing country.

2. The main purpose of the new Additional Act to the Berne Convention is to specify the limitations which are to be made in regard to the right to be given to developing countries. Generally speaking these relaxations are less far-reaching than those of the Stockholm Protocol regarding Developing Countries. Since Sweden has already admitted the application of that Protocol to works of which Sweden is the country of origin, it follows that Sweden has no difficulty in accepting the provisions of the new Additional Act.

3. It could be argued that in some respects certain further relaxations ought to be given to the developing countries. On the other hand, it might in some respects seem desirable to safeguard the interests of authors by restricting the exceptions from normal copyright protection which are laid down in the draft Additional Act. The Swedish Government, however, refrains from making any specific suggestions of this kind since it is clear that the present text is in substance, the result of a compromise between diverging interests and that difficulties might easily arise, if the balance of this compromise was disturbed.

3. In the new Additional Act, certain criteria have a particular importance, especially as compared with Article 2, paragraph (3), a special time-limit is applicable in regard to "a translation into a language which is not in general use in one or more of the countries". Article 2, paragraph (6), provides that a work shall be considered "to be developed countries" for the purpose of the teaching, scholarship or research. According to Article 3, paragraph (5), it is decided whether or not a copy of a work has been distributed "in connection with systematic educational activities".

It is obviously difficult to define the exact scope of these different expressions. For this reason, it is essential that those who wish to benefit from the Additional Act should be able to have cases of concrete issues to be applied in accordance with the new provisions introduced in the Additional Act, so that in the future their interpretation can be facilitated by an elucidating discussion recorded in the travaux préparatoires.

4. According to Article 2, paragraphs (2) and (3), of the Additional Act, a translation is allowed at least in copyright agreements. It is therefore important that some attention should be devoted to such cases in which a work published in a translation in the language of the developing country concerned. It is added in paragraph (3) of the same Article that such licences shall not be granted until a further period of six months has elapsed from the date of the application for a licence or of the dispatch of certain documents. It is not clear to what extent the reservation provided for in Article 1(3) of the Additional Act concerning the logical right to refuse a translation license in such cases, the wording of para- graph (3) of the same Article to which the right to insist on a licence is only related to the three or one year period, may be precise enough to cover the case of a licence for a translation in the States party to the Additional Act, but the wording of paragraph (3) of the same Article which to which the right to insist on a licence is only related to the three or one year period, may be precise enough to cover the case in point here.

The same ambiguity exists in regard to reproduction licences. Article 3, paragraphs (2), (3) and (4), the same Article, states that the question which arises in regard to these paragraphs is whether or not the person who is the owner of the right of reproduction after the expiry of the three, five or seven year period but within the six month period dealt with in paragraph (4) which excludes the owner of the reproduction licence in the same way as during the three, five or seven years period.

5. Article 2, paragraph (6), of the Additional Act provides that for works which are composed entirely of illustrations, a licensee may be granted only if the conditions of Article 3 are also fulfilled. This provision regarding translation licences in respect of this type of work is illustrated but the illustrations are not the main part of the work, as the main part of the work is the whole work as defined in Article 3 (regarding reproduction licences) but merely those parts. Article 2 regarding translation licences in respect of the Additional Act has therefore to be given this solution, in particular since it may be difficult to determine whether or not a work carried on in a developing country.

6. The Swedish Government has observed that Article 2 contains no provision regarding the case where the copyright owner, after a translation license has been granted, publishes his own translation of the work in the country concerned. In this provision regarding this situation is to be found in Article 1 (3) of the Stockholm Protocol. As regards reproduction, this case is dealt with in Article 1, paragraph (6), and it should be considered further whether there are sufficient reasons to treat the two cases differently.

7. According to Article 3, paragraph (2), of the Additional Act, the right to obtain a reproduction license in a developing country relates to a particular edition of a work and depends on whether copies of that edition have been distributed in that country to the general public or in connection with systematic instructional activities. This seems to imply that, even if one edition of a book has been published in a developing country, a reproduction license cannot be obtained to a different edition of the same work which has not been distributed to the general public or in connection with systematic instructional activities. It is, however, clear from the Japanese and the Dutch comments that the same language and of substantially the same contents should be considered to be one single edition for the purposes of paragraph (2) of Article 3. In so far as paragraph (6) of that Article is concerned, they are, however, two different editions: the first one in a different language and of substantially the same contents should be considered to be one single edition for the purposes of paragraph (2) of Article 3.

8. Article 3, paragraph (7), of the Additional Act introduces the term "audio-visual works." The introduction of this term is an important matter in international copyright agreements. It is therefore important that some attention should be devoted to such cases in which a work has been transferred from its original form to a film, tape, etc., for instance a filmed choreographic work.

It further seems that the drafting of Article 5, paragraph (7), (c) is improved. Indeed, it does not refer to state in the first sentence that the works concerned are "limited to works in printed or analogous forms of reproduction" and then add a second sentence which makes it clear that certain other works are also included.

9. According to Article 4, paragraph (1) of the Additional Act, a person who wishes to obtain a translation or reproduction license may be granted only if he has requested, and has been denied, authorization by the owner of the right of translation or reproduction to reproduce the edition. It is not required that,
COMMENTS OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS ON PROPOSALS FOR A REVISION OF THE BERNE CONVENTION

EUROPEAN BROADCASTING UNION (EBU)

I. The revision proposals drawn up by the Permanent Committee of the EBU are based on the realistic awareness that the importance of the role played by culture in the emergence of democracy, freedom, and human rights, is dramatically designed to stimulate the cultural development of those countries’ populations by facilitating the flow of works for teaching and research.

According to today’s world, the monopoly of the right to broadcast is prevalent. No one will deny that broadcasting is a permanent factor in the teaching of young people beyond normal school and university teaching hours, and consequently the expansion of knowledge among adult education.

The instruction is taken from several main sources (literacy) to the most advanced type of course, and it supplements all educational curricula from primary school to university. Hence it is indisputable that this activity has become a fact important for the development of countries, especially for those not able to broadcast in these countries.

II. Scrutiny of the revision proposals makes it clear, however, that broadcasting is not covered and is indeed implicitly, if not explicitly, excluded.

Article 2 of the Additional Act states unambiguously that a translation license will be granted only with a view to publishing the work "in printed analogous form of reproduction", and this excludes translation either for broadcasting or for purposes of recording for broadcasting. Since broadcasting does not constitute publication under the Berne Convention (Article 3) and recording for broadcasting purposes, although deemed a reproduction within the meaning of the Convention (Article 9), is certainly excluded from the protection "analogous" to the printed form.

The only conclusion is that Article 2 of the Additional Act does not apply to broadcasting and the EBU considers that this omission, which was "intended for the protection of works in broadcast, under the Additional Act, should be remedied.

III. To be precise, what is needed is the system of licences allowed by Article 2(1) of the Additional Act should be extended to broadcasting organisations which, though they do not own the work and are not extensions for their own use, they nevertheless can broadcast, do "not publish" those works within the meaning of Article 2. However, pursuing this line of argument would require an assessment whether broadcasting organisations can, in performing their teaching function, take advantage of the possibilities opened up by the Berne Convention.

1. The first provision which comes to mind in this connection is Article 11(2)(d), which allows compulsory licensing for educational purposes. It is to be admitted, however, that a national legislation which had instituted compulsory licensing for educational purposes would not have settled the problem of translation. The broadcaster, in any case, would make it to their advantage to broadcast works cast unamended by the obstacles which might exist in the absence of a compulsory license, but the work would meet only limited success, i.e., in particular, its original language. The question was raised at the Second Conference of the EBU. The discussion is summarized in paragraph 205 of the Report on the Work of the Conference. The conclusion was that "some delegations were expressing the wish for laws useful for in Article 11(2)(d)".

The proposals of indirect compensation for broadcasters should be reported to them, and the European Broadcasting Organization should be considered in the light of the existing situation.

At the same time this raises the question of the translation of the Berne Convention, as amended, to the EBU. Article 11(2)(d) were sufficiently in itself for the needs of "broadcasting education. A problem would not arise, as the Stockholm Convention was transmitable. European countries other parties, "virtually imply the possibility of the use not to the translator, will be considered, and has been demonstrated, however, Article 10(2) does not meet the needs of "broadcasting education". The problem of the proposal for the possibility of translating the Berne Convention was considered in the light of the existing situation.

The links are reproduced in this document. The customs introductions and complaints have been omitted, however.

It should be noted that the comments refer to the draft texts for the revision of the Berne Convention as adopted by the Permanent Committee of the EBU, which are contained in document B/D/7.

The responses are submitted in this document. Their contents and the comments referred to the draft texts for the revision of the Berne Convention as adopted by the Permanent Committee of the EBU, which are contained in document B/D/7, are not therefore, new, but new, are contained in document B/D/7, which was distributed later.
having regard to the specific role of broadcasting in the welfare of the countries, the Additional Article requires supplementary provisions.

(1) This Article applies to the reference to sound or visual recordings in Article 10(2). National legislative provisions for broadcasting purposes, provided that the works concerned are designed to illustrate teaching. Arguments designed to show that this limitation is compatible with the rights of broadcasting in the educational structure of developing countries were developed in Articles 3 and 4. These provisions are applicable to recordings intended for broadcasting since, after all, recording in this case is not a mere technique of broadcasting. Hence Article 10(2) will not allow national legislation to license the recording in the wider sense in which works are used not simply as illustrations but form the basis of educational activity. Still less can this provision be invoked to legalize the use of works in transmitted reproduction for the purposes of educational instruction.

(2) Paragraph 2 of the Report on the proposals set out in Article 3 of the Convention of the Stockholm Conference of 1961 clearly stated that the object of transmitting or broadcasting a work is the transfer of the work to a more extensive range of listeners.

(3) It is therefore not surprising that Article 10(2) permits "audiovisual works" to be reused for teaching and learning purposes, provided that the works are used in accordance with the provisions of this paragraph.

(4) It should be noted that "audiovisual works" includes sound recordings.

V. The translation of sound recordings into teaching material or vice versa is not within the scope of this provision. The translation should include all necessary technical methods, but it does not extend to the translation of the text or the script. The translation should be as faithful as possible to the text of the original work, but it may be adapted to the needs of the recipient. The translation should be authorized by the owner of the work. The translation should be made only in the language of the country where the work is to be used. The translation should be made in accordance with the principles set out in Article 10(2).

VI. Having regard to the above, it is proposed that the new Article should be inserted in the Additional Article between the present Articles 4 and 5 which could be, by way of example, be worded as follows:

"1. A license to translate a literary or artistic work may be granted on the conditions laid down in Articles 2 and 4 of this Additional Act, as far as those conditions are applicable, to a broadcasting organization having its headquarters in the country of the member States to which Article 10 of this Additional Act applies, for its broadcasts intended for teaching and learning purposes, and also for sound or visual recording for such broadcasts.

2. A license under Article 5 may be granted to a broadcasting organization for the sole purpose of using a literary or artistic work in the translation of such work into another language for broadcast purposes only.

This proposal calls for few comments, since it arises from the preceding remarks. However, in case the suggested text should have failed to mention any of the points discussed, or if directives issued by the Conference of the member States to which Article 10 applies, for its broadcasts intended for teaching and learning purposes, and also for sound or visual recording for such broadcasts.

(Original: English)

INTERNATIONAL CONFEDERATION OF SOCIETIES OF AUTHORS, COMPOSERS AND MUSICIANS (CISAC)

This proposal is in line with the principles set out in Article 10 of this Additional Act and in the draft Convention of the Stockholm Conference of 1961.

VII. Article 10(2) of the Additional Act provides that the acts of reproduction are not to be considered as acts of translation, provided that the acts of reproduction are performed in accordance with the provisions of this paragraph. The act of reproduction should be made in accordance with the principles set out in Article 10(2). The act of reproduction should be authorized by the owner of the work. The act of reproduction should be made only in the language of the country where the work is to be used. The act of reproduction should be made in accordance with the principles set out in Article 10(2).

"The Additional Act provides that the acts of reproduction are not to be considered as acts of translation, provided that the acts of reproduction are performed in accordance with the provisions of this paragraph. The act of reproduction should be made in accordance with the principles set out in Article 10(2). The act of reproduction should be authorized by the owner of the work. The act of reproduction should be made only in the language of the country where the work is to be used. The act of reproduction should be made in accordance with the principles set out in Article 10(2)."

8. The provision for the translation of the Additional Act should be inserted in the Additional Act between the present Articles 4 and 5 which could be, by way of example, be worded as follows:

"1. A license to translate a literary or artistic work may be granted on the conditions laid down in Articles 2 and 4 of this Additional Act, as far as those conditions are applicable, to a broadcasting organization having its headquarters in the country of the member States to which Article 10 of this Additional Act applies, for its broadcasts intended for teaching and learning purposes, and also for sound or visual recording for such broadcasts.

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(Original: English)

INTERNATIONAL FEDERATION OF ASTRONOMERS, ASSOCIATIONS OF وزنگنیسان (IAU)

The three International Federations of Actors (FIA), of Musicians (FIM) and of Variety Artists (FIV) form a loose grouping of interest groups known as the FIFI. Apart from the purpose, the FIFI aims to promote the interests of all performers in the film industry and to safeguard the rights of performers.

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Editors' Note: This document is an abridgement of the Revised Convention of the Berne Union (Document DA/31/17) and is presented to the Conference of the Intellectual Property Committee, reproduced in these present terms.
The situation is one of no drawbacks, as it could give rise to abuse.

**INTERNATIONAL LITERARY AND ARTISTIC ASSOCIATION (ALAD)**

The General Assembly of ALAD, held in Paris on January 15, 1971, noted with satisfaction that the draft text of the provisions of the proposed Additional Act and the explanatory note to the proposal had been submitted to the Permanent Committee in September 1970, representing a considerable advance towards reconciling the interests of developing countries with the safeguarding of authors' rights. On the whole it is in favor of the adoption of these provisions.

With regard to the exceptions reserved for developing countries, it insists on the following:

1. no export should be allowed of copies of a translation or reproduction (Article 40);
2. just remuneration should be calculated according to the "standards of royalties normally operating on licenses freely negotiated between persons in two countries concerned," at the same time ensuring "transnational in internationally convertible currency or its equivalent" (Article 40(a) and (b));
3. the irreversibility of the choice between the reservations in respect of the exception of translations or their replacement pursuant to Article 302(c) and (d) of the Proposed Act should be maintained (Article 40(b) and (c));
4. the acknowledgment of the proposed provision, copyright proprietors would face the problem of dealing with the grant of licenses, taking into account the enormous number of works, the translations rights of which would fall into the public domain in such developing countries;
5. the definition of "commerce" in the proposed text should be adequate to avoid the problem of remuneration for the transfer of such remuneration to them;
6. the extension of the International Copyright Information Center referred to in Article X of the proposed Additional Act and the extension of the Intergovernmental Committee of UNESCO should be extended to include developing countries, in order to provide public and distributing libraries with an up-to-date list of developing countries, and to assure the regular payment of just remuneration.

Consideration that the Additional Act, whether or not it is included in the future Paris Act, should not be brought into force until the International Copyright Information Center is in a position to operate efficiently.

Finally, as has been stated, developing countries have the burden of duty to assist developing countries in over- coming the insufficiency and to bestow them in the various fields of education and culture, the most elementary principles of copyright. It is submitted that the proposal resulting from the accomplishment of this duty should be not be borne, in developed countries, solely by authors and composers and their representatives.

**INTERNATIONAL PUBLISHERS ASSOCIATION (IPA)**

The International Publishers Association, representing publishers from both developed and developing countries, wishes to record its membership on the 24th anniversary of the Stockholm and Universal Copyright Conventions proposed by the Permanent Committee and the Inter-governmental Committee of UNESCO at their meetings in Paris and Geneva, respectively.

IPA regrets the need for the introduction of systems of compulsory licensing for developing countries, while recognizing that this may cause difficulties for developed countries and may also lead to disproportionate access to copyrighted works in these countries as compared with their access to works developed in countries. IPA expresses the hope that international measures to provide adequate assistance to developing countries, so that their authors and composers and their representatives can cooperate to the full in the development of copyright, will take place. It affirms the willingness of the publishers to make the widest possible use of the facilities provided by the proposed Additional Act and the related Coordinating Group (which is expected to come into operation next year) for the purpose of just remuneration.

Finally, as has been stated, developing countries have the burden of duty to assist developing countries in overcoming the insufficiency and to bestow them in the various fields of education and culture, the most elementary principles of copyright. It is submitted that the proposal resulting from the accomplishment of this duty should be not be borne, in developed countries, solely by authors and composers and their representatives.

Therefore the Music Publishers urge the Governments of States and states, developed and developing, to ratify the present convention and to apply its provisions in respect of the music publishers.

For the reason that a uniform period of three years should be established.
Rule 1 — Delegations

Delegations of States members of the International Union for the Protection of Literary and Artistic Works (Berne Union) may participate in the work of the Conference, with the right to vote. Each delegation may consist of delegates, advisers and experts.

Rule 2 — Observers and representatives

The following may take part in the Conference as observers, without the right to vote:

(a) observers from Member States of the United Nations of one or more organizations within the United Nations system which are not Members of the Berne Union and to whom access is given by an agreement at the Berne Congress;
(b) representatives of the United Nations Organization and its agencies, as well as of the specialized agencies of the United Nations and its affiliated organizations;
(c) observers from the international non-governmental organizations listed in the annex to this document.

II. Credentials

Rule 3 — Presentation of credentials

(1) The credentials, accompanied by the seals of the diplomatic agents of the countries of which the delegates are members, shall be presented to the Secretary of the Conference, before meeting and being seated in the Conference Room, by the delegates designated by the Governments of the following States:

(a) countries which signed the Berne Convention of 1886;
(b) countries which have become Members of the Berne Union by ratification of the Berne Convention of 1886;
(c) countries which are Members of the Berne Union by virtue of an agreement;
(d) countries which are Members of the Berne Union by virtue of a mandate;
(e) countries which are Members of the Berne Union by virtue of a convention.

Rule 4 — Provisional admission

(1) Any delegation to which admission as an observer has been made shall be seated provisionally with the same rights as other delegations until the Conference has given its decision concerning the admission after hearing the report of the Credentials Committee.

(2) Any delegation which submits credentials not fulfilling the conditions laid down in Rule 1, paragraphs 1 and 2, may be authorized by the Conference to be seated provisionally with the same rights as other delegations, subject to presenting credentials in proper form before the last plenary meeting.

They may, under the same conditions and for the same purposes, obtain a license to translate a text in order to explain or accompany a televised audio-visual broadcast.

The substance of this proposal could be included in the provisions of the existing Additional Act.

URRNA makes reservations, however, as to the periods of protection in respect of translation and reproduction, in addition to the language denunciation embodied in the Additional Act be removed.

(Original: French)

Rule 7 — Credentials Committee

The Credentials Committee shall consist of seven members elected by the Conference, on the proposal of the President, from among the States mentioned in Rule 1. The Committee shall elect its own Chairman; it shall examine and report to the Conference without delay on the credentials of delegations; it shall also examine and report on the credentials of observers.

Rule 8 — Main Commission

The Main Commission, in the work of which all delegations are invited to participate, shall make a detailed study of the proposals for revision of those provisions of the Stockholm Act (1967) of the Berne Convention for the Protection of Literary and Artistic Works which concern developing countries, and shall prepare draft texts for submission to the Conference at a plenary meeting.

Rule 9 — Bureau

The Bureau shall consist of the President, Vice-Presidents and General Rapporteur of the Conference, the Chairman and Vice-Chairman of the Main Commission, the Chairman and Vice-Chairman of the Drafting Committee, the Chairman and Vice-Chairman of the Credentials Committee, the Chairman and Vice-Chairman of the Sub-Commission on the text of the draft Convention, and of the members of the Sub-Committees on the text of the draft Convention and of the instruments annexed thereto in the two languages of the Convention.

Rule 11 — Duties of the President

The President shall open and close each plenary meeting of the Conference; he shall direct the discussions, and shall publish the minutes of the proceedings of the Conference. He shall direct the taking of votes, and shall announce the results. He shall rule on points of order, and, subject to the present rules, shall control the proceedings and the maintenance of order.

The Chairman and Vice-Chairman of the subsidiary bodies of the Conference shall have the same rights and duties with regard to the bodies over which they are called to preside.

Rule 12 — Acting President

If the President finds it necessary to be absent during a meeting or any part thereof, the Vice-President designated by lim shall replace him as Acting President. A Vice-President selected in this manner shall have the same powers and responsibilities as the President.

Rule 13 — The President shall not vote

The President, or a Vice-President acting temporarily as President, may not vote, but may designate a member of his delegation to vote in his place.

IV. Conclusion of business

Rule 14 — Public relations

All plenary meetings and the meetings of the Main Commission shall, unless the body concerned decides otherwise, be open to the public.

Rule 15 — Quorum

(1) At plenary meetings of the Conference, a majority of the States members of the Berne Union shall constitute a quorum.

(2) A quorum is not required for the subsidiary bodies of the Conference.

(3) The Conference cannot deliberate in plenary session without the quorum defined in sub-paragraph (1) above.

Rule 16 — Order and time-limits of speeches

(1) Subject to the provisions of sub-paragraph (2) below, the President shall call upon speakers in the order in which they signify their wish to speak. The Secretariat is responsible for drawing up the list of speakers.

(2) The Chairman or the Rapporteur of a subsidiary body of the Conference may accord precedence for the purpose of explaining the conclusions reached by the body of which he is the Chairman or the Rapporteur.

(3) To facilitate the conduct of business the President may limit the time to be allowed to each speaker.

(4) The consent of the President must be obtained whenever an observer of an international non-governmental organization wishes to make a verbal communication.

Rule 17 — Points of order

During a discussion, any delegation may give rise to a point of order and such point of order shall be immediately decided by the President, who shall inform the President, of the Conference of his decision. Such appeal shall be put to the vote immediately, and the President's ruling shall stand unless it is overturned by a majority of the delegations present and voting.

Rule 18 — Suspension, adjournment and closure

(1) In the course of a discussion, any of the delegations referred to in Rule 1 may move the suspension or adjournment of the meeting, or the adjournment or closure of the debate.

(2) Such motions shall be immediately put to the vote. Subject to the provisions of Rule 17, the following points shall have precedence in the following order over all other propositions or motions:

(a) To suspend the meeting;
(b) To adjourn the meeting;
(c) To adjourn the debate on the item under discussion;
(d) To close the debate on the item under discussion.

Rule 19 — Resolutions and amendments

Draft resolutions and amendments shall be transmitted in writing to the Secretariat of the Conference, which shall circulate copies to delegations. As a general rule, no resolution or amendment shall be discussed or put to the vote unless it has been circulated sufficiently in advance to all delegations in the working languages.

Rule 20 — Consideration of proposals adopted or rejected

When a proposal has been adopted or rejected, it may not be reconsidered unless decided by two-thirds of the total votes present and voting, and in no case may a motion to reconsider be adopted unless the two-thirds majority of the total votes present and voting, or a majority of the total votes present and voting, for a particular motion to reconsider shall be adopted.