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**RECORDS
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GENEVA

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ORGANISATION MONDIALE DE
LA PROPRIÉTÉ INTELLECTUELLE
OMPI

- 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.

S/277 SECRETARIAT. Paris Convention. *The following note concerning the Stockholm Act of the Paris Convention is submitted to the plenary meeting of the Paris Union:* 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 4-1 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.

S/278 MAIN COMMITTEES I, II, and IV. Berne Convention. *Editor's Note:* This text contains the complete text of the Berne Convention as approved by the Main Committees both in English and in French. In the following, only the differences between the French text approved by the Main Committees and the text as signed on July 14, 1967, are indicated. The English text of the final report can be found in Volume II. The use of the past tense refers to document S/278.1

in Article 6bis (3) of the final text, there was no corresponding text in the Draft Convention (document S/278).

in Article 7(4), the word following "works of applied" was: arts; rather than: art.

in Article 14bis (2) (c), the text was: 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.

in Article 14bis, the text of paragraph (3) ended with the words: to all the countries of the Union; rather than: to all the other countries of the Union.

in Article 17, the text was: 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.

in Article 28(2) (c), the words preceding "and the Protocol Regarding Developing Countries" were: Articles 1 to 21; rather than: Articles 1 to 26.

in Article 32(7), the words following "has made a declaration pursuant to" were: Article 25(1)(b)(i); rather than: Article 28(1)(b)(i).

in Article 1 of the Protocol, the first sentence, the words following "which includes" were: Article 2 of the Act; rather than: Article 21 of the Act.

in Article 5(1) of the Protocol, the sub-paragraphs were numbered: (i) and (ii); rather than: (a) and (b).

in Article 5(1) (ii), the reference was to "the provision of item (1)"; rather than: the provision of sub-paragraph (b).

in Article 6, the words following "any country" were: which has made a declaration of notification under Article 31(1); rather than: which is bound by the provisions of this Protocol and which has made a declaration or notification under Article 31(1).

S/279 SECRETARIAT. Madrid (TM) Agreement. *The following information on the text of the Stockholm Act of the Madrid (TM) Agreement is submitted to the Plenary Assembly of the Madrid Union:* 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.

S/280 SECRETARIAT. Madrid (FIS) Agreement. *The following information on the text of the Additional Act of Stockholm of the Madrid (FIS) Agreement is submitted to the Plenary Assembly of the Madrid Union:* 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.

S/281 SECRETARIAT. Hague Agreement. *The following information on the text of the Complementary Act of Stockholm of the Hague Agreement is submitted to the Plenary Assembly of the Hague Union:*

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.

S/282 SECRETARIAT. Nice Agreement. *The following information on the text of the Stockholm Act of the Nice Agreement is submitted to the Plenary Assembly of the Nice Union:* 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.

S/283 SECRETARIAT. Lisbon Agreement. *The following information on the text of the Stockholm Act of the Lisbon Agreement is submitted to the Plenary Assembly of the Lisbon Union:* 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.

S/284 MAIN COMMITTEE V. WIPO Convention. *Editor's Note:* This document contains the complete text of the WIPO Convention as approved by the Main Committee

both in French and in English. In the following, only the differences between the English text of the Main Committee and the text as signed on July 14, 1967, are indicated. The use of the past tense refers to document S/284.1

in Article 4(i), the word following "national" was: legislations; rather than: legislation.

in Article 12(4), the words following "shall conclude" were: the agreement referred to in paragraphs (2) and (3); rather than: and sign on behalf of the Organization the agreements referred to in paragraphs (2) and (3).

S/285 UNITED STATES. Berne Convention. *Statement 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 and practice 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 am sure that we can learn from it, and that I think there is a great deal of credit tonight. As a developing country the United States responded to international copyright protection by imposing rigid and unworkable requirements which, despite endless controversy, we had 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

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 the 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 practices 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 am sure that we can learn from it, and that I think there is a great deal of credit tonight. As a developing country the United States responded to international copyright protection by imposing rigid and unworkable requirements which, despite endless controversy, we had 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 threshold of the computer age. We have already found that the demands of computers, or rather of those who use computers, upon copyright works are enormous. It could 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 the dependent expression since the Renaissance. Copyright, as it now exists combines two elements: control and creation. 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.

S/286 CZECOSLOVAKIA, Berne Convention. *In Article 21(2) (document S/9), as subparagraph (d), add: The Protocol may be applied, within the meaning of its Article 5, three months after the signature of this Act.*

S/287 MAIN COMMITTEE II, Berne Convention. *The following resolution was proposed by the Main Committee: 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.*

S/288 RAPORTEUR, MAIN COMMITTEE IV, Paris and Berne Conventions. *The following Draft Report is submitted to the Main Committee:*

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 Intellectual Property (Paris Union, document S/9), the International Convention for the Protection of Literary and Artistic Works (Berne Union, document S/9), and the other Conventions and Agreements concerned with intellectual property (Trademarks, Agreements on 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) to examine proposals for the final clauses of the Convention, the provisions regarding the adoption of transitional measures and, lastly, decisions to be taken regarding the ceiling of contributions of States. While the structural and administrative provisions of the Union are connected with the proposed new Intellectual Property Organization, the final clauses and transitional measures

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 and functions 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 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 Article 14 relating to the composition and the number of members of the organs 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 unanimity 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 Bureau of the Paris Union and the Berne Union founded 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 delegations of each Union. This designation, in the same organ—like a two-faced institution, on the one hand, of the new structural organization established at Stockholm, and 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, S/3 and S/9) means were made to the original text (documents S/3 and S/9) concerning the matters of the Unions. In fact, stating that the budget of the Unions 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 limited and other decisions 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