

5-3-2-4

DEPARTMENT OF CONSUMER AND CORPORATE AFFAIRS
MINISTÈRE DE LA CONSOMMATION ET DES CORPORATIONS

[illegible]


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FILE LONDON CONFERENCE OF THE BERNE UNION (1954)
DOSSIER REGISTRE

CLOSED VOLUME

*FURTHER CORRESPONDENCE ON THIS SUBJECT
IS ON THE NEXT VOLUME*

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RG 103 Vol. 4 File 5-3-2-4

DEPARTMENT OF
THE SECRETARY OF STATE

MEMORANDUM

- 1) Asst. Under Secretary -
- 2) Com'g of Patents.

Please peruse, consider my marginal notes, ^{refer to} our previous correspondence on the subject discussed in para. 3 of the letter from Ext. Affs. dated the 31st ult., and submit as soon as possible a reply for my signature -

For reply 1
see Vol 2
File 5-3-24/4/54
WJG

Ottawa,

C. S.
U. S. S.
Recd. by me 5 ¹⁰/₅₄
WJG

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correspondence
with Ext. Affs.
before about
this. This appears
to be that

membership on the Permanent Committee
advisory body without any executive
the fact that Canada has served on
1948 and that it might be desirable
of the Commonwealth or an Asian coun

OTTAWA FILE

No.

Letter No. 102

Date.

5 March 1954

SECURITY CLASSIFICATION

Restricted

FROM:

CANADIAN EMBASSY, BERNE, SWITZERLAND

TO: THE UNDER-SECRETARY OF STATE FOR EXTERNAL AFFAIRS, CANADA

Reference.

Your letter J-32 of February 11, 1954 and my letter

Subject: No. 97 of March 3, 1954

International Union for the Protection of Industrial,
Literary and Artistic works.

Copies Referred

To.

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No. of Enclosures

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Post File

No.

1. As mentioned in my letter under reference I made an appointment to see Mr. Jacques Secrétan, the Director of the International Office for the Protection of Industrial, Literary and Artistic Works. Mr. Secrétan was very frank in discussing the objectives and problems of the International Union in respect of the Berne Convention for the Protection of Literary and Artistic Works and also of the Paris Convention for the Protection of Industrial property. Mr. Secrétan, who was legal advisor to the International Labour Office at Geneva before assuming his present post, gave me the impression of being very energetic and full of ideas for furthering the work of the International Union which on his own admission had fallen into decline.

2. We spoke first of the Berne Convention. Mr. Secrétan mentioned it was unfortunate that Western European nations seemed to predominate on the Permanent Committee. He went on to say, however, that one had only to look at the list of states adhering to the Berne convention to realize that the convention did not provide universal copyright coverage. Given the present membership it is difficult to imagine great changes in the composition of the Permanent Committee. While the regulations provided for representation on the Permanent Committee of the various parts of the world there were large areas in the world which had not adhered to the Berne Convention. Principal among these are: Soviet Russia, China and the United States, and every country in South America with the exception of Brazil. Mr. Secrétan was quite frank in saying he did not know what could be done about this. He does not think there is any possibility of the U.S. ratifying the Berne Convention. He mentioned that South America is, by and large, a consuming and not a producing country as far as literary and artistic works are concerned. Most South American states find it to their advantage to remain outside the International Union because they do not have to pay authors and composers fees. In this regard, he mentioned that Spain was very badly protected because a novel which might sell 10,000 copyrighted copies in Spain sold 100,000 pirated copies in South

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America. Spain is trying to overcome this by negotiating bilateral conventions with Mexico and other South American states but he did not think much success had been achieved. He said he was at a loss to know how this situation might be overcome. Several attempts had been made to interest South American states in adhering to the Berne convention and Argentina and Uruguay had in fact promised to do so but no action had as yet been taken and he was not optimistic that it would be taken. He went on to say that when one wanted to talk about copyright matters with any western European country one knew whom to address. In South America, however, one never knew whom to approach nor the authority and responsibilities of the individuals one eventually saw. It is a Kafka-like situation and very frustrating.

3. He thought that there was a possibility that Russia could be interested in adhering to the Berne Convention. Poland serves in the Permanent Committee and Czechoslovakia is at the moment protesting its exclusion from the committee. Russia is, of course, a producing country as far as artistic works are concerned and he imagined that Russia might be interested in protecting the foreign publication of its authors and musicians. One step which he thought might be taken to broaden representation on the Permanent Committee from among present adherents of the Berne Convention might be to arrange for Japan's appointment to the Committee.

4. Mr. Secrétan had some caustic remarks to make about the Universal copyright convention drafted by UNESCO. In his opinion the UNESCO convention did not give as adequate protection as does the Berne convention and he thought it a result of UNESCO's desperate efforts to find work to justify their existence. He mentioned an article written by Luther Evans in the UNESCO bulletin of 1951 criticizing the Berne convention and he admitted that some of Evans' criticisms were valid, but he did not think the Universal Convention rectified the faults of the Berne Convention. He remarked that most countries were waiting for the U.S. to ratify the Universal convention before they decided to ratify themselves. He thought it ridiculous that there should be a conflict between the Universal convention and the Berne Convention in the form of a race for adherence and informed me that he had attempted to arrive at an Agreement with UNESCO in order to coordinate and approach the various parliaments for ratification. He thought it would be most unfortunate if, say, a South American Government or Parliament should be faced with two different conventions dealing with copyright for ratification.

5. Mr. Secrétan then turned to the question of the Secretariat and mentioned that articles 21 and 22 of the Berne Convention called for all publications to be in the French language. In his opinion times had changed since the turn of the century and he ought to have authority for publication in several languages. To this end he mentioned that he was very anxious to

...3

develop better relations with the English speaking world. He informed me that his budget for 1954 includes provision for an English speaking councillor to be attached to the Secretariat. He said that he would have had an English speaking councillor by this time if there had not been an unfortunate competition between two nations for the appointment. Article 21(2) of the Berne Convention stipulates that the Swiss Government "shall regulate its (i.e. the International Office) organization and supervise its working". Unknown to each other both Ireland and the United Kingdom have proposed a candidate for the position of English speaking councillor and the Swiss government, faced with the dilemma of choosing between the two, prefers to place the matter before the Permanent Committee meeting on May 24. Secrétan said that following the May meeting he will have an English speaking councillor and will have, he hopes, authority to publish in English and perhaps other languages. On taking over his appointment he had given orders for a wider distribution of the Secretariat's publications and he hoped that increased distribution in several languages might help with the propagation of the copyright idea and induce non-members to join what he called "our family".

6. In an effort to interest non-member nations Mr. Secrétan informed me that he had invited representatives of the U.S. Patent Office, the Council of Europe and UNESCO to attend the May 24 meeting of the Permanent Committee in London. In a general discussion of this point I made the personal suggestion that it might be worthwhile inviting a representative of the Pan American Union which is now in session in Venezuela to attend the London meeting as an observer; working through such an observer it might be possible to interest South American states and perhaps find a method of approaching the states and encouraging their ratification. Mr. Secrétan accepted this suggestion with alacrity.

7. We then turned to the Paris Convention for the Protection of Industrial Property. As I understand it, this Convention deals with patents, trade marks, industrial designs, inventions, models, etc. in much the same way as the Berne Convention protects artistic works; I attach a booklet containing a French and English version of the Paris Convention in case you do not have a copy. I gathered from Mr. Secrétan's remarks that he thought that the most progress to be made in the work of the International Office lay with the Paris Convention at the present time. The Paris Convention was first agreed upon in 1883 and has undergone revisions in 1900, 1911, 1925 and 1934. In Mr. Secrétan's opinion, not only did the Convention itself need modernizing but he also believed the organization by which the work of the Convention is carried out to be old fashioned; with regard to possible reorganization he thinks that a Permanent Committee, similar to that of the Berne Convention would be a great improvement.

...4

Letter No.

Subject

Date

To

From

Reference

Subject

May

We have
ratified the
broader version
of the Paris Convention
and we pay our membership
promptly. I suggest that we
report faithfully every year
on the activities of the office.
We also advise the Bureau of
any change in our registra-
tion. What have they
want?
29.4.54. J.M.H.

8. I understand that Mr. Secrétin plans to call a general conference to discuss the future of the Paris Convention some time late this year. He mentioned as an aside that the conference might possibly be held in Portugal and for this reason he hoped that nothing would be done to offend Portugal before the meeting was held. Mr. Secrétin said that the industrial development of many areas of the world had been quite remarkable since the Paris Convention was last revised in 1934. While the United States had deposited its ratification in 1935 and was very conscientious about reporting to the International Office, I understood Mr. Secrétin to say that an industrial nation of the stature of Canada had not as yet ratified the Paris Convention and did not correspond with the International Office on the subject of Patents, trademarks, inventions and other industrial properties.


9. Mr. Secrétin gave me a "Table of Recommendations" which has been compiled from suggestions for the improvement of the Paris Convention made by various congresses and assemblies between 1934 and 1953. I understand that this "table" has not yet been given general distribution and that it will serve as the general basis of discussion at the forthcoming meeting of the Paris Convention to be held in Portugal. I shall send an English language version of the "table" for your information by our next air bag.

10. You will recall that in my letter under reference I mentioned that Mr. Secrétin planned to visit New York, Washington and Ottawa in April. He informed me that his plans were not yet firm and that he could not give me definite dates regarding his Ottawa visit. I gained the impression that he would be delighted to receive an invitation from some person in the Secretary of State's Department to discuss his problems and Canada's relations with the International Union. He has, I understand, very good personal relations with the United States Patent Office and with Sir John Blake, Controller General of the U.K. Patent Office. I suggest that it might be to our advantage to issue an invitation to Mr. Secrétin. He plans, I think, to stay 10 days in the United States and said he would like to visit Ottawa for two days. The address of the International Office is 7 Helvetiastrasse, Berne, Switzerland.

W. R. D. [Signature]
for the Embassy.

DOMINION OF CANADA

PATENT OFFICE,

Ottawa, 

*Mr. R. ...
Obtained ...
Bernie ...
File for ...
Feb 3 52 ...
J.M.*

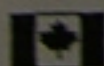
MEMORANDUM

Phone 6668

Mr. Boss - External Affairs called about this matter and advised that the situation had changed since they had an interview with a Portuguese representative.

Before the interview External Affairs had the opinion that the Portuguese wanted us to withdraw from the Committee so that they could have a member appointed. This was incorrect however as the Portuguese now want our support in having the members from the Netherlands withdraw and a member from Portugal appointed.

It seems that the Netherlands have made the statement that there is



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pour le Directeur,
Bureau de l'Union internationale
pour l'...

Chargé de...

Memorandum to Mr. O'Meara

I am sending a messenger with the file you have requested. I am sorry that something has come up which prevents me of taking it to you myself. However, if there is anything you wish to discuss please do not hesitate to give me a ring at 9717. - I am at your entire disposal.

C. S. Bombardiere.

P.S. I have flagged our letter to you of January 8, 1954.

Secretary

attached for

4, from B

K.J.

ler-Secretar
or External



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