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Department of External Affairs

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File No. 55-19-1-ICC

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Subject: CULTURAL AFFAIRS -

Vol. ONE

CULTURAL PROPERTY - CANADIAN -

From FEB 27/69

To MAR 1970

INTERDEPARTMENTAL COMMITTEE ON COPYRIGHT

VOLS ACCESSION NO

213455

References to Related Files

File No.

Subject

L-150-303

PUBLIC RECORDS ORDER

P.C. 1965 - 1767 - AUTHORITY

PUBLIC ARCHIVES APPROVALS

ND5 68/001 & 69/063

RETENTION PERIOD AND DISPOSITION

15 yrs. 2A-177

AND

THEN TRANSFER TO P.A.C.
FOR SELECTIVE RETENTION

DIVISIONAL SYMBOL

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ACCESS TO INFORMATION
LOI SUR L'ACCÈS À L'INFORMATION

DATE / DATE

16/3/92

Diary

MEMORANDUM

Legal Adviser

CONFIDENTIAL

Legal Division

September 23, 1969

Memorandum for the Minister of
September 19, 1969

Copyright Meetings--Canadian Position

55-19-1-1CCP

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Cultural
Affairs Div.
(M.I. Dolgin)Commercial
Policy Div.Policy Analysis
Group

Although the Memorandum to Cabinet on the above subject was not forwarded to us in draft form for comment, an officer in this Division has participated in one of the meetings of the Interdepartmental Copyright Committee and we have been kept fully informed of the deliberations of that body by the Department of Consumer and Corporate Affairs.

2. We are in general accord with the policy recommendations embodied in the enclosed documents and in particular, from a legal standpoint, we see considerable merit in the Joint Study Group exploring the possibility of creating a new international multilevel copyright convention to replace the present instruments which would provide protection to literary and artistic works while at the same time meet the needs of developing countries. The complexities of the legal relationships between the Berne Union states, who are not linked by a common text, (there have been three revisions of the International Convention for the Protection of Literary and Artistic Works since its inception in 1908 with member countries not all subscribing to the same revisions), between the Berne Union and the Universal Copyright Convention, and the problems that have resulted from the failure of the Stockholm revision are all factors which amply demonstrate the need for a thorough review and possible overhaul of the existing legal régime governing international copyright. It is to be hoped, that the Joint Study Group with appropriate prompting from our delegation will be in a position to formulate some solutions to these problems.

Legal Division.



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55-19-1-ICCP

CABINET DOCUMENT

No. 912-69

SEP 25 PM 3:19

CONFIDENTIAL

September
1969

MEMORANDUM TO THE CABINET

Participation by Canada in a Joint Study Group Established
by the Berne Union and the Universal Copyright Convention

1. In International Copyright matters Canada is a member of the Berne Union for the Protection of Literary and Artistic Works and a party to the Universal Copyright Convention. These two international Conventions have established a Joint Study Group with wide terms of reference to consider all aspects of international copyright problems. These problems have been increasing and have given rise to serious difficulties, particularly on the part of those countries which are largely importers of copyrighted material. As a matter of priority, the needs of developing countries in obtaining copyrighted educational material at reduced cost are first to be considered by the Study Group.
2. Canada is one of twenty-six countries selected to participate in the Joint Study Group. The first meeting will take place in Washington, D.C. September 29-October 4 next.
3. In order that I might be kept advised of copyright problems generally, both international and domestic, and because immediate consideration had to be given to the position Canada should take at the meeting of the Joint Study Group, I caused an Interdepartmental Committee on Copyright to be established early in 1969 composed of officials from the following Departments of Government: Department of Consumer and Corporate Affairs; National Library;

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National Film Board; Canadian Radio-Television Commission; Department of Finance; Department of Communications; Department of Industry, Trade and Commerce; Department of External Affairs; Canadian Broadcasting Corporation; and the Canadian Printing Bureau. The Committee is under the Chairmanship of the Commissioner of Patents, Mr. A. M. Laidlaw, and the Deputy Chairman is the General Counsel of the Canadian Broadcasting Corporation, Mr. Jacques Alleyn.

4. A number of meetings of this Interdepartmental Committee have taken place. The first conclusions of the Committee resulted in a preliminary Canadian statement, of which I approved, which was forwarded to the secretariats of both Conventions. A copy is attached to this memorandum.
5. It will be noted that the statement was purposely kept in general terms to allow freedom of action, as the subject of copyright is still under consideration by the Economic Council of Canada. Nevertheless, the statement indicates a preference toward the creation of a new multi-level International Convention eventually to replace both the Berne Convention and the Universal Copyright Convention, and which would permit countries to join at varying levels depending on their economic situations. A new convention of this type could materially benefit Canada and improve our export-import imbalance in copyrighted works.
6. For background purposes it should be noted that Canada originally became a member of the Berne Union by reason of U.K. accession, Canada being a U.K. possession at that time. In becoming bound by later revisions she was probably influenced by U.K. policy. Canada is at present bound by the Rome Revision of 1928. The Universal Copyright Convention (U.C.C.), which offers less international copyright

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protection than Berne, was ratified by Canada in 1962.

The U.C.C., however, contains a "safeguard clause" which has the effect of preventing for the future any country, e.g. Canada, from leaving the Berne Union and seeking sole membership in the U.C.C. with its more limited protection. In other words, a country that leaves Berne cannot join or remain in U.C.C. at the present time. In hindsight, it is difficult to see why this safeguard clause was accepted by Canada. Canada can no longer leave Berne and rely solely on the U.C.C. for a lower level of international copyright protection.

7. At the last International Copyright Revision Conference of the Berne Union, held in Stockholm in 1967, the developing countries were successful in having enacted a Protocol to the Revision which considerably lessened copyright protection for these countries with respect to copyrighted educational material. Canada took no position with respect to this matter because the Economic Council was studying our copyright law. It would appear that if Canada takes the same noncommittal attitude again, her future position as a serious participant in international copyright matters will be weakened.
8. All major countries have refused to ratify the Stockholm Revision, principally because of its accompanying Protocol, with the result that the developing countries have threatened to leave the Berne Union and are now attempting to remove the "safeguard clause" of U.C.C. referred to above so that this might be accomplished. To satisfy the needs of the developing countries, members of both Conventions have agreed to study the situation and possibly establish "links" between the two

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Conventions in such a way as to minimize any further lessening of copyright protection, except for developing countries. It is proposed that the "safeguard clause" be "suspended" for developing countries only. In short, the past is to be preserved as far as possible; and major exporting countries of copyrighted material can be expected to fight any inroads that might weaken the present status and lessen royalty payments.

9. Anything that is recommended along the above lines by the two Conventions, although of assistance to the developing nations, will be of no benefit to Canada. Nevertheless, I think it should be made quite clear from the outset that Canada would not oppose any course of action which would assist the developing nations in obtaining copyrighted educational material at minimum cost.
10. Although Canada is undoubtedly a "developing country" in so far as copyright is concerned (because of the large import imbalance of trade in copyrighted material), nevertheless it is not so considered by the two Conventions. A "developing country" under U.N. definition is considered a country which has an average per capita income per year of \$ U.S. 300 or less. In my view, any country with a very large export-import imbalance in copyrighted materials should be entitled, like the developing countries, to maintain a somewhat lower level of international copyright protection.
11. From the study carried out by the Interdepartmental Committee on Copyright and from the proposals I have received, I have concluded that
- (a) Canada should take a new and fresh approach to international copyright protection through the

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proposal of a new multi-level Convention in the hope that other countries in her position will join with her--although this may be a vain hope for the immediate future;

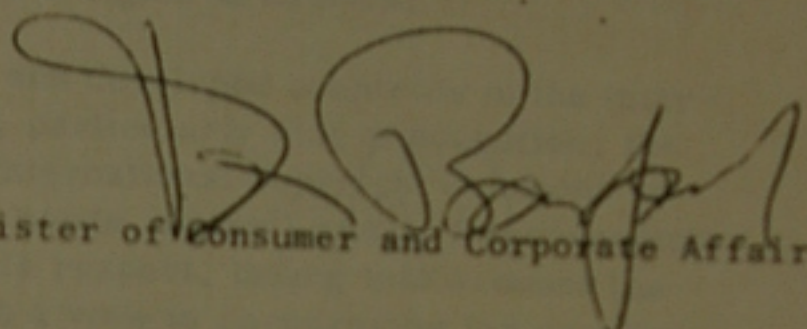
- (b) Canada should suggest, in so far as international copyright is concerned, that the definition of a "developing country" should be made more realistic;
- (c) Canada, at the same time, should take no steps that might create any alarm among Canadian authors, creators, or publishers that the present international copyright protection afforded to Canadians will be weakened; and
- (d) Canada, in any event, should make it clear at the Joint Study Conference she is nevertheless in favour of any reasonable and generally acceptable proposal that would assist the developing countries (even under the U.N. definition) in obtaining copyrighted educational material at minimum cost.

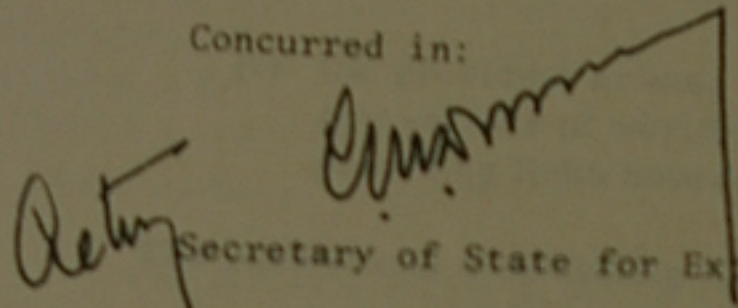
Recommendations

- 12. I recommend that the presently constituted Interdepartmental Committee on Copyright be recognized officially by Cabinet.
- 13. I further recommend jointly with the Minister of External Affairs the following:
 - (a) That a delegation of two persons, together with a representative from the Department of External Affairs, represent Canada officially at the Washington meeting of the Joint Study Group and be permitted to participate in further meetings of the Group or any committees thereof;
 - (b) That the Canadian delegation be instructed to participate at the meeting within the confines of the Statement already presented to the two International Conventions;
 - (c) That the Canadian delegation suggest to the Joint Study Group that, in so far as international copyright is concerned, the definition of a "developing country" should not be based on per capita income, but on a substantial import imbalance of trade in copyrighted material.

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- (d) That the Canadian delegation nevertheless approve of any reasonable and generally acceptable proposal that would bring to developing countries (as based on the U.N. definition) copyrighted educational material at minimum cost.


Minister of Consumer and Corporate Affairs

Concurred in:

Secretary of State for External Affairs

55-19-1-ICC

[Pt. 11]

The general terms of reference for the Joint Study Group authorized jointly by the two international copyright committees, namely, the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union), and the Intergovernmental Copyright Committee (Universal Copyright Convention), are to examine any questions concerning international copyright relations and their practical implications; and, as matters of priority:

- (a) the establishment of an international system for permitting developing countries a greater degree of access to protected works while respecting the rights of authors;
- (b) the needs of developing and developed countries in the international copyright field, particularly that of education, the effect of the regime of international copyright relations on the satisfaction of these needs, as well as any improvements that could be made in this respect, taking into account the interests of authors with a view to encouraging the creation of intellectual works;
- (c) the problems arising from the existence of two copyright conventions of world-wide scope and possible methods for providing links between them.

The resolutions constituting the Joint Study Group recalled:

"the serious present and potential problems of multilateral copyright relations, considering the necessity of furthering the betterment of mankind as well as the urgent requirements of developing countries in the educational field and the impact of international copyright arrangements upon them, considering also the economic problems of domestic production and international exchanges of intellectual works".

Governments of the states party to the Berne Convention, the Universal Copyright Convention, or both, have been invited to communicate to the joint secretariat, studies or proposals on any question within the competence of the Joint Study Group.

In answer to this invitation Canada wishes to submit the following suggestions and comments:

The three items of priority mentioned above are in many respects inter-related, with the result that it was considered that they should be dealt with together but with as much emphasis as possible placed on the priority as requested.

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[Pt. 1.1]

The most serious copyright problem today concerns the needs of many countries which wish to use copyrighted works under conditions suited to their particular requirements. The copyright conference in Stockholm adopted a Special Protocol which would, if ratified, drastically reduce copyright protection in the developing countries. However, time has shown that major developed countries have not acceded to this Protocol, and hence relief is not yet available to these countries and their problems are not in any manner alleviated.

The needs of the developing countries, as opposed to the desire of the developed countries to enforce high protective levels, tend towards a breakdown of the existing international conventions and, consequently, the protection of authors' rights.

The cost of textbooks in the developing countries, most of which are produced outside these countries, is so high that only a minority of school-going children can afford to provide themselves with adequate books of instruction. If books are to be supplied at prices which these children can afford, then they must be produced more cheaply than at present. This may well mean smaller royalties paid to authors and publishers for republication in the original language and for translation into native languages where appropriate.

The developing countries find themselves in the position where they must import most of the copyright material they use, and their need for a high level of copyright protection for their own authors is of less importance at the present time, although this will undoubtedly increase over the years. Canada is in a somewhat similar position in this respect.

The solution to this problem may lie in a new international system, perhaps radical in scope, which could create a certain stability in international relations, recognize authors' rights and at the same time move towards meeting the needs of all developing countries and permitting, for those who require it, a greater degree of access to copyrighted works.

International copyright is undoubtedly facing a crisis and existing methods appear to be incapable of handling or meeting the present and immediate needs of the developing countries or, indeed, of meeting the problems created by technological advances. Technological development in highly industrialized countries continues to expand the gap of copyright differences existing between countries. International copyright agreements are not able to keep pace with the rapid developments in photocopying, means of utilizing television through communication satellites, computers with information storage and retrieval systems using international networks, etc.

It is important to remember that the present problem of access to works by developing countries falls within the context of the older forms of copyright. However, it is suggested that the present copyright laws and conventions are also unable to cope with the problems associated with the new technology and the emerging rights associated with such technology.

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In addition, there is a range of problems associated with copyright relationships between countries which are members of one or the other convention, or are members of both conventions. In particular, the full implications of the Berne "Union" principle are not clear.

While the Berne Convention established a "Union" amongst its members consisting of all the countries which are members at any level, questions often arise as to which texts determine the international obligations between two Union members participating at different levels. Views on this matter are conflicting and clarification is deemed necessary to Canada since it is, on the one hand, a country participating at the lesser demanding Rome level and yet, on the other hand, it is desirous of determining its position in relation to other Union countries and the effects of possible accession to other levels of the Berne Union. Another matter that requires clarification is the applicability of the Universal Copyright Convention to countries which are members of the Berne Union but which have not ratified the same Berne Union Text.

While consideration of certain questions associated with the possible revision of the Universal Copyright Convention have been referred to the Sub-committee named at the recent Paris meeting, it should be recognized that there is a serious need to study the effects of such a revision in conjunction with all other problems facing the international copyright situation. This matter should rightly be undertaken by the Joint Study Group, as this aspect will determine many decisions that it must make.

The dual existence of the two major conventions is made difficult by Article XVII and the Appendix Declaration of the Universal Copyright Convention. What, for example, will be the result of any revision of this Article and Declaration contained in the Universal Copyright Convention and in what positions will other member countries find themselves subsequent to such a revision? The Berne Convention rule that "no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries comprising it", Rome, Article XXIV (3), and assuming that the Universal Copyright Convention (Article XVII and Declaration) does not affect the provisions of the Berne Convention and hence membership in the Union and the relationships of the countries party thereto, the question arises as to the extent of agreement necessary on the part of the Berne Union countries with regard to the suspension, deletion or revision of the Universal Copyright Convention "safeguard clause".

The establishment of any system permitting greater degree of access to protected works affects, in great part, authors' rights and the industries associated with such rights. With this in mind the resolution of these problems must be sought in the direction of imaginative proposals leading towards stability in international relations, recognition of creators of intellectual property and yet, at the same time, meeting the needs of those countries whose interests may lie in reduced protection. As mentioned previously, one approach to problems of international copyright relations might be found in a suitable multi-level international copyright convention wherein countries may adjust from one level to another having regard to their needs. Such a structure might enable international responsibilities and commitments to be related to the benefits derived.

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Any Canadian position depends on the solution to the problems above. The questions associated with the Berne "levels" problems and the effect following a possible revision of the Universal Copyright Convention "safeguard clause" are important considerations.

In spite of a disproportionately large import of copyrighted works, Canada, a member of both the Berne Union and the Universal Copyright Convention, provides a high level of protection to foreign authors. As stated, Canada's position is somewhat analogous to that of developing countries when compared to countries with higher exports of copyright material.

Canada wishes to assess and determine its own copyright protection needs and the level of protection it should accord to its own nationals and foreign authors, but the disturbing complexities of the present international situation are such that no unilateral action should be taken without grave consideration.

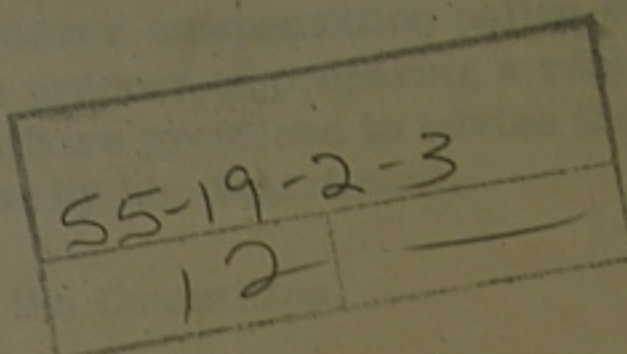
Canada is presently soliciting the views of the many interests that would be affected by any revision of present international agreements, and these will be given serious consideration between now and the September-October meeting of the Joint Study Group.

June 22, 1963.

INTERDEPARTMENTAL COMMITTEE ON COPYRIGHT

Fifth Meeting - July 3, 1969.

Minutes



The following were present:

Mr. A.M. Laidlaw (Chairman)
Mr. F.W. Simons (Secretary)
Mr. J.G. Sylvestre
Mr. A.A. Keyes
Mr. J.M. Demers
Mr. J. M. Déry
Mr. K.T. Hepburn
Mr. G.E. Pallant
Mr. J.P. Carrière
Miss E. Cuddihy

Department of Consumer & Corporate Affairs
Department of Consumer & Corporate Affairs
National Library
National Film Board
Canadian Radio-Television Commission
Department of Finance
Department of Communications
Department of Industry, Trade & Commerce
Department of External Affairs
Department of Communications

1. Canadian Statement for the Washington Meeting

Mr. Laidlaw informed the meeting that the Canadian Statement, prepared by the Committee had received the approval of the Economic Council of Canada and the Minister of Consumer and Corporate Affairs, with minor amendments, and copies had been forwarded to BIRPI and UNESCO.

2. Our next task was to prepare a firm stand with instructions to the Canadian delegation to the Washington meeting to guide their participation at the meeting. When prepared this stand would have to be approved by a full meeting of the Economic Council of Canada, the Minister of Consumer and Corporate Affairs and possibly by Cabinet.

We should aim at having this completed and ready for approval by the middle of August or at the latest September 1.

3. Discussion of Briefs Received from Outside Organizations

General comments were received first and then detailed comments.

One comment was to the effect that the briefs ask for more copyright protection and more control, however, they do not deal with the problems that would be present in trying to implement this increased control.

Compensation for Authors & Creators

There followed a discussion with regard to the proposal that authors and creators be compensated directly by the government for loss of copyright revenue for the use of copyrighted works used by developing countries.



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It was pointed out that External Affairs had received a questionnaire from UNESCO asking for Canadian comments on a proposed author compensation policy such as the one outlined above. External are at present in the process of preparing a reply to this questionnaire and Mr. Carriere of External Affairs promised to advise the Committee with regard to the form of answer contemplated by his department.

This point might require some study by the Committee.

Each of the briefs received from outside organizations was discussed in detail. Some of those briefs were extremely good while others did not relate to the subject at hand. Most of them were pressing for more protection in a particular field with rather weak arguments or no arguments at all as to why the present protection should be increased.

4. It was suggested that the Committee go on record as recommending a single International Convention with several levels of protection.

5. Sub-Committee

A sub-committee was formed, consisting of the following:

Mr. A.M. Laidlaw
Mr. Jacques Alleyn
Mr. A.A. Keyes
Mr. G.E. Pallant.

This sub-committee was to study the proposal in #4 above and report to a meeting of the main committee.

The first meeting of this sub-committee is to be July 7, 1969 at 10:00 a.m. in Room 708, Canadian Building, 219 Laurier Avenue West.

6. Montreal Meeting - Mass Communication and Society, June 21-30, 1969

This was a UNESCO sponsored meeting held in Montreal, dealing with the impact of mass communication on society.

Mr. Frank Keyes attended on behalf of this Committee and the National Film Board.

Among other aspects, the meeting was concerned with the fact that technical developments have overtaken the older forms of production and use of copyrighted works.

Mr. Keyes will submit a full report on the Montreal Meeting to this Committee.



Mont Orford Conference - September 5 & 6, 1969

Mr. Simons described to the Committee the plans for a Copyright Conference to be held at Mont Orford September 5 and 6 by the Canadian Conference of the Arts. Mr. Simons and Mr. Keyes had been invited to attend and deliver papers.

Next Meetings

Sub-Committee on Canadian stand at Washington meeting

July 7, 1969 at 10:00 a.m., Room 708, Canadian Building, 219 Laurier Avenue West.

Main Committee

July 29, 1969 at 10:00 a.m., Room 708, Canadian Building, 219 Laurier Avenue West.

July 3, 1969



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INTERDEPARTMENTAL COMMITTEE ON COPYRIGHT

Minutes of Meeting - March 10, 1969.

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The following were present:

Mr. P.T. Eastham	Department of Industry, Trade & Commerce
Mr. A.A. Keyes	National Film Board
Mr. M. Dolgin	Department of External Affairs
Mr. W.A. Dymond	Department of External Affairs
Mr. K.T. Hepburn	Department of Communications
Mr. A.M. Laidlaw	Department of Consumer & Corporate Affairs
Mr. F.W. Simons	Department of Consumer & Corporate Affairs

The following were absent:

Mr. Jacques Alleyn	Canadian Broadcasting Corporation
Mr. J.G. Sylvestre	National Library.

Additional Members

It was agreed that Mr. Laidlaw would have a member appointed from the Department of Finance, preferably someone knowledgeable in GATT matters.

Appointment of Officers

The following officers were appointed:

A.M. Laidlaw	- Chairman
Jacques Alleyn	- Deputy Chairman
F.W. Simons	- Executive Secretary.

Purpose of the Committee

The reason for forming the committee is to have available a government group skilled in the various aspects of copyright matters, so that they can study and recommend action on the various copyright problems arising from time to time and so that they will be available and ready to act on the Copyright Report from the Economic Council when it is published.

In this connection it was pointed out that the Canadian Copyright Act has not been changed since 1924, is very much out of date and is not designed to cope with many new developments such as satellites, computers, etc.

MEETING OF THE INTERDEPARTMENTAL COMMITTEE ON COPYRIGHT
WITH ORGANIZATIONS FROM THE PRIVATE SECTOR

11th meeting - Attended by representatives from the
Canadian Association of Broadcasters

This meeting was held in Room 708, 219 Laurier Ave. West, 10:00 A.M.,
March 5, 1970.

The following people were present:

Members of the Interdepartmental Committee on Copyright

Mr. A.M. Laidlaw

Commissioner of Patents and Chairman of
the Committee

Mr. F.W. Simons

Assistant Commissioner of Patents and
Executive Secretary

Mr. A.A. Keyes

National Film Board

Mr. G.E. Pallant

Department of Industry, Trade & Commerce

Mr. Ian Wees

National Library

Mr. G. Patenaude

Queen's Printer

Mr. J.M. Demers

Canadian Radio-Television Commission

Mr. D.A. Hilton

Department of Communications

Mr. J.M. Dery

Department of Finance

Mr. Charles Lapointe

External Affairs

Mr. W.F. Barnicke

Economic Council of Canada

Representing the Canadian Association of Broadcasters

Mr. J. Allard

Executive Vice-President

Mr. Rafe Engle

On behalf of the C.A.B.

In accordance with decisions taken earlier, no minutes were kept at this
meeting but the discussions were recorded on tape and stored for future
use by those present, only.

The next meeting of the Committee will be on March 12, 1970 with the
Canadian Cable Television Association. This meeting will be held in
Room 708, 219 Laurier Ave., West, at 10:00 A.M.

Deputy Minister
Bureau du sous-ministre



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REPORT OF THE CANADIAN DELEGATION

ON THE

EXTRAORDINARY JOINT SESSION OF THE PERMANENT
COMMITTEE OF THE BERNE UNION AND THE INTER-
GOVERNMENTAL COMMITTEE OF THE UNIVERSAL
COPYRIGHT CONVENTION (U.C.C.)

Paris, February 3 to 7, 1969
UNESCO House

1. Purpose of the Meeting

This was a special meeting called by UNESCO under authority of Article XII of the U.C.C. because of requests for revision of the Convention by ten member countries.

2. Arrangement of Meetings

There were three separate meetings.

Meeting of the Intergovernmental Committee alone;

Meeting of the Permanent Committee alone;

Joint Meeting of the Intergovernmental Committee and the Permanent Committee.

3. Composition of the Canadian Delegation

A. M. Laidlaw, Commissioner of Patents (Head);

F. W. Simons, Assistant Commissioner of Patents;

J. Corbeil, Second Secretary, Canadian Permanent Mission to the U.N., Geneva.

The Canadian Delegation attended in the capacity of observers but spoke and participated in the discussions.

4. Other Canadians Present

Mr. R. Sharp, Executive Director of the Canadian Copyright Institute, also attended with observer status representing the Canadian Copyright Institute. He was the only member from the Canadian private sector to be represented. Some problems were encountered in getting Mr. Sharp admitted to the meeting but these were finally overcome.



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Meeting of the Intergovernmental Committee alone

Mr. Ribeiro (Brazil), Acting Chairman of the Committee, was elected Chairman in the absence of the regular Chairman, Mr. Cippico.

The question was raised as to whether the requests for revision of the U.C.C. were in fact actual requests. It was finally agreed that there was sufficient consensus of opinion that a conference be convened to revise the U.C.C.

It was then decided to appoint a sub-committee to make the necessary preparations for the revision conference and the terms of reference of this sub-committee would be limited solely to the amendment of Article XVII and the Appendix Declaration relating thereto and would not extend to the clauses of substantive law. (This Article is referred to as the "safeguard clause", more particularly described in my memorandum of December 30, 1968).

This sub-committee consists of representatives from the following states: France, Federal Republic of Germany, India, Kenya, Mexico, U.S.A.

The sub-committee is to submit its report to the Intergovernmental Committee at the time of its next regular session, December 1969 and to communicate, as a matter of information, its report to a Joint Study Group to be established by a Joint Meeting of the two Committees.

6. Meeting of the Permanent Committee alone

The matters discussed at this meeting dealt mainly with matters on which advice could be given to the Intergovernmental Committee on amending Article XVII of the U.C.C., and the related Appendix Declaration.

One matter considered was the definition of a "developing country", and whether the established practice of the General Assembly of the U.N. in this regard should be accepted, (i.e., a "developing country" be considered that country whose inhabitants earn less than \$300 per annum).

The Committee discussed the amending of the U.C.C. but no consensus of opinion was reached.

7. Joint Meeting of the Intergovernmental Committee of the U.C.C. and the Permanent Committee of the Berne Union

This meeting considered one item only, namely, the establishment of a "Joint Study Group" (as suggested by resolutions 3 and 59 IX, adopted respectively by the Permanent Committee of the Berne Union and the Intergovernmental Committee of the U.C.C. at their ordinary sessions held in December 1967).

After considerable discussion the meeting approved the setting up of a Study Group.

The composition of this group is as follows:

Representatives from 26 states:

Argentina, Australia, Brazil, Canada, Ceylon, Czechoslovakia, France, Germany (Federal Republic), India, Italy, Ivory Coast, Japan, Kenya, Mexico, Netherlands, Nigeria, Peru, Philippines, Roumania, Senegal, Spain, Sweden, Tunisia, United Kingdom, United States of America and Yugoslavia.

The first suggested list for this committee was proposed by Italy. This was a list that had been prepared some time ago, outside the meetings and had the support of a fairly large number of countries. However, India suggested a second list and then further suggestions were made from the floor.

After considerable discussion and negotiation the list mentioned above was decided on. This Joint Study Group was given very broad terms of reference and it may study "any questions concerning international copyright relations and their practical implications". The first meeting is to be held in Washington September 29 to October 3, 1969.

The Joint Study Group, as a matter of priority, is to deal with the following matters which will be included in the agenda of its first session:

- (a) the establishment of an international system for permitting developing countries a greater degree of access to protected works while respecting the rights of authors;
- (b) the needs of developing and developed countries in the international copyright field, particularly that of education, the effect of the regime of international copyright relations on the satisfaction of these needs, as well as any improvements that could be made in this respect, taking into account the interests of authors with a view to encouraging the creation of intellectual works;
- (c) the problems arising from the existence of two copyright conventions of world-wide scope and possible methods for providing links between them.

Governments of the States Party to the Berne Convention, the Universal Copyright Convention, or both, and all interested international non-governmental organizations, are invited to communicate to the Joint Secretariat, before May 1st, 1969, studies or proposals on any question within the competence of the Joint Study Group.



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The Joint Study Group shall report on the results of its first session and its proposals as to its further work to the Permanent Committee and the Intergovernmental Copyright Committee at their next regular sessions.

Comments

Prior to the present meetings it had been hoped by many that the amending of the U.C.C. could be postponed or held in abeyance until a thorough study was made in advance by the proposed "Joint Study Group". But the pressure to amend the U.C.C., especially by India, was too strong to tolerate any delay so the only compromise feasible was to have two groups established to operate simultaneously, the first (comprised of six States) to study and implement an amendment of Article XVII to the U.C.C.; and the second, being the Joint Study Group, to consider all international copyright matters. Both groups are to report to the Ordinary Meeting in December 1969.

With this arrangement it is still possible that the Joint Study Group may persuade the December meeting that action other than the amending of Article XVII of the U.C.C. may be the best solution. One possible solution might well be a new single convention with more than one level of protection, to replace the present Berne and U.C.C. conventions. This was very briefly mentioned at the meeting by the U.K. delegate and we understand that the U.S.A. may consider such a proposal, although they made no mention of it at the meeting.

9. Recommendations of the Canadian Delegation

1. That the Canadian Interdepartmental Committee on Copyright as proposed in my memorandum of December 30th, 1968, be set up.
2. That, as a matter of priority, the Committee should prepare studies or proposals on any question within the competence of the Joint Study Group and submit these for consideration by the Joint Secretariat of the two International Committees prior to May 1st, 1969.
3. That the Committee consider prior to the Washington Meeting of September 29 - October 3, 1969 of the Joint Study Group:
 - (i) whether the present definition now used for a "developing country" should be used in matters pertaining to international copyright;
 - (ii) whether Canada should take a position with respect to a single international copyright convention to replace the Berne Convention and the U.C.C. on a

basis that would provide different levels of protection for developed and developing countries.

4. That the Canadian delegation's representatives at the Washington meeting include a French-speaking member of the Interdepartmental Committee in addition to Mr. Jacques Corbeil, a member of this delegation.

A. M. Laidlaw.

February 14, 1969.