

ANNEX I

ARGENTINA

Permanent Delegation of the
Argentine Republic to Unesco

Ref. No. 34/35

Paris, 11 May 1967

I have pleasure in replying to your communication DG/6/126/397 relating to the revision of the Universal Copyright Convention.

Dr. Tiscornia, Director-General of the Argentine National Registry for Intellectual Property, has made the following observations on this question:

"The incorporation of the new African States in the international community has made it necessary to consider - I refer solely to legislation for the protection of copyright - the need for harmonizing the defence of copyright with the facilities required for the expansion and development of culture in those States.

At the African Study Meeting on Copyright held in Brazzaville from 5 to 10 August 1963, under the joint auspices of Unesco and BIRPI, in pursuance of a resolution approved by the General Conference of Unesco at its twelfth session (Paris, 1962), a recommendation was adopted in the preamble of which it was stated that the African countries, in their present state of development, were importers of works of the mind and that utilization of works of the mind was an essential factor in the human fulfilment of their peoples and in their effective contribution to the establishment of mutual understanding among nations.

It was also considered that the international conventions on copyright, in their present form, had been framed to meet the needs of countries that were exporters of works of the mind.

To enable those conventions to be generally and universally applicable, they should be reformulated so as to take account of the specific needs of the African continent.

The terms of resolution 5.122 adopted at the fourteenth session of the General Conference of Unesco and the proposed revision of the Convention were motivated by the above-mentioned statements and recommendations of the Brazzaville Conference.

The problem of adapting the provisions of the Convention to the possibilities of the developing countries has also engaged the attention of the Berne Union, and the problem of instituting certain rules in favour of those countries has occupied an important place in the preparatory work for the Conference for the revision of the Berne Convention to be held in Stockholm in June of this year.

The Study Group for that Conference, when proposing amendments to the Convention, pointed out that the majority of those concerned had recognized that the exceptional measures in favour of the developing countries were justified in principle.

A differential treatment which, without weakening copyright, would represent a generous attitude that should not be abandoned.

I believe that Argentina ought to be one of the countries to sponsor such differential treatment. The loss or, rather, temporary inconvenience in the matter of royalties that certain authors or commercial companies might have to suffer as a result of this treatment would, in my opinion, be amply compensated, in the long run, by the contribution which, as a result of such exemptions, the new generations of the countries thus favoured would, in due course, make towards world culture.

I consider, therefore, that the convening of a conference for the revision of the Universal Convention is necessary, to deal not only with the proposed reform but also with certain other aspects which, as for instance Article V concerning translations, need to be lightened in their structure".

(Translated from the Spanish)

Permanent Delegation of the
Argentine Republic to Unesco

Ref. No. 41/35

Paris, 24 May 1967

I have pleasure in referring to my notes /.../ and No. 34/35 of the 11th instant, in which I communicated to you the observations of Dr. Tiscornia, Director-General of the Argentine National Registry for Intellectual Property, concerning /.../ and revision of the Universal Copyright Convention.

In confirmation of what was said by telephone to officials of the relevant Department of the Secretariat, I am pleased to inform you that the observations of Dr. Tiscornia were made on behalf of the Argentine Government.

(Translated from the Spanish)

AUSTRIA

The Permanent Delegate of
Austria to Unesco

Ref. 4371-A/67

Paris, 5 June 1967

[...] I have the honour to communicate to you [...] the Austrian viewpoint on the amendment of the Universal Copyright Convention.

"If it be intended to make this amendment by means of provisions expressly favouring the developing countries, it should be pointed out that such action might be of doubtful value because it would encourage the tendency in multilateral law and customary international law to depart, for the benefit of the developing countries, from the principle of legal equality between States.

It is in the interests of medium-sized and small States - excluding the interests of the developing countries - rather to safeguard this principle".

Such is the position of the Austrian Ministry of Foreign Affairs with regard to resolution 5.112 [sic], adopted at the fourteenth session of the General Conference. The Austrian Ministry of Justice adds:

"This resolution calls for the amendment of the Universal Copyright Convention in favour of the developing countries. The aim is, in fact, to amend all the provisions of the Universal Copyright Convention relating to the second multilateral copyright convention, i.e. the Berne Convention. However, the latter is to be submitted for revision to a conference to be held in Stockholm this summer; according to the official programme, the conference is to discuss the provisions that should be drawn up in favour of the developing countries. Clearly, the results of the conference are bound to have an important bearing on the attitude to be adopted in regard to the demands of the developing countries, as expressed in the aforesaid resolution.

In view of these considerations, the Permanent Committee of the Berne Union unanimously passed a resolution at its extraordinary session of 14-16 March 1967 inviting the governments of the Member States of the Berne Union to wait until the Permanent Committee had met in December, after the Stockholm Conference, to study the matter before stating their views on the amendment of the provisions of the Universal Copyright Convention relating to the Berne Convention".

Austria, as a member of the Berne Union, approves the suggestion of the Permanent Committee.

(Translated from the French)

BELGIUM

Ministry of Education and Culture

Ref. GLd/FR/DA.766A-770

Brussels, 18 April 1968

In your letter of 15 February 1968, following those of 30 December 1966 and 1 June 1967, you submitted to the Belgian Government resolution 5.122, adopted by the General Conference of Unesco at its fourteenth session (Paris, October-November 1966), which calls for a suspension of some of the effects of Article XVII of the Universal Copyright Convention. This could be done only by convening a conference to revise the Convention.

This question is linked to that of the possible entry into force of the Protocol Regarding Developing Countries, unanimously approved at the Conference which met in Stockholm in June-July 1967 to revise the Berne Convention.

Further, an inquiry is being carried out in this connexion under a resolution adopted both by the Intergovernmental Committee and by the Permanent Committee at the session they held in Geneva in December 1967.

Under these circumstances, the Minister of Education and Culture has decided that the Belgian Government cannot come to a decision on Unesco's resolution until the aforesaid investigations have been completed.

(Translated from the French)

Republic of Chile,
Ministry of Education
Ref. OAN/mes

Subject: Possible re-
Convention
With regard to
does not

CAMBODIA

Cambodian National Commission
for Unesco

Phnom-Penh, 30 November 1967

Ref. 910 CMC/UNESCO/PS

Referring to your letter No. DG/126/191 of 1 June 1967, I have the honour to inform you that the Royal Government of Cambodia is for the time being unable to give any valid opinion on the possible revision of the Universal Copyright Convention, as Cambodia has no laws on the subject.

The Royal Government and the National Assembly are still studying the provisions governing domestic practice in the matter.

The National Assembly will then come to a decision on our accession to the Universal Convention⁽¹⁾.

As to the Berne Convention of 1886, Cambodia has never considered itself bound by this Convention since its accession to independence.

In a letter No. 2951/DGE/RC-NU-34 of 28 September 1960, the Ministry of Foreign Affairs gave confirmation that this was Cambodia's position to Mr. Jacques Secretan, Director of the United International Bureau for the Protection of Industrial, Literary and Artistic Property in Geneva.

(Translated from the French)

CANADA

Ministry for External Affairs

Ottawa, 14 March 1968

In answer to your letters DG/6/126/397 of 30 December 1966, DG/6/126/191 of 1 June 1967 and DG/6/126/23 of 15 February 1968, I have the honour to inform you that we are not at present able to comment on resolution 5.122, adopted at the fourteenth session of the General Conference of Unesco and relating to the possible revision of the Universal Copyright Convention.

As the question of copyright in Canada is at present being studied by the Economic Council of Canada, you will appreciate our desire to await its findings before answering Unesco's request.

(Translated from the French)

- (1) In a letter dated 8 December 1967 (ref. INLA/COPY/126/473) the Secretariat of Unesco pointed out to the Royal Government of Cambodia that an instrument of accession to the Universal Copyright Convention had been deposited with the Director-General of Unesco on behalf of Cambodia on 3 August 1953.

CHILE

Republic of Chile,
Ministry of Education

Ref. OAW/mes

Santiago, 11 April 1968

Subject: Possible revision of the Universal Copyright
Convention - Ref: DG/6/126/23

With regard to the above subject, I have to inform you that this Ministry does not consider it desirable to introduce any changes into the Universal Copyright Convention.

(Translated from the Spanish)

CZECHOSLOVAKIA

Permanent Delegation of the
Czechoslovak Socialist Republic
to Unesco

Ref. 9004/68/Tyl

Paris, 3 July 1968

In reply to your letter of February 15, No. DG/6/126/23, I have the honour to confirm on behalf of the Ministry of Foreign Affairs of the Czechoslovak Socialist Republic, that it maintains its position as far as the proposals contained in the resolution 5.122 of the fourteenth General Conference of Unesco are concerned.

For these reasons my Government is in favour of the convocation of a conference for the revision of the Universal Copyright Convention, as far as its Article XVII and the Declaration annexed to it are concerned.

Allow me furthermore to point out that my Government would not object to the possibility of inclusion in the programme of such a conference of the revision of other articles of the mentioned Convention which would be of interest to developing countries, as e.g. Article XI.

(Original: English)

DENMARK

The Danish National Commission
for Unesco

Ref. 259/66

Copenhagen, 23 February 1968

[...] I hereby wish to inform you that the views of the competent Danish authorities with regard to a possible revision of the Universal Copyright Convention are the following:

At the Stockholm Conference, July 1967, concerning a revision of the Berne Union and during the preparations of this revision the Danish Government took an active part in the working out and adoption of the special protocol concerning the developing countries, a protocol which constitutes an integrating part of the Convention. The provisions of this protocol reflect an extensive consideration for the justified wish of the countries in question to profit provisionally from the protection granted by the provisions of the Berne Union without being obliged to grant to the full extent a similar protection as far as works originating from the developed countries are concerned.

Whether in the light of the results achieved at the Stockholm Conference there is a need for the revision of Article XVII in the Universal Convention, mentioned in resolution 5.122, is a question which in the opinion of the Danish authorities cannot be decided upon until it has been demonstrated within the next few years whether the protocol of the Berne Union has attained the practical importance aimed at.

The Danish Government consequently has no wish to have the Universal Convention taken up for a revision for the time being, with a view to a revision of Article XVII.

In resolution 5.122 mention is made also of the possible need for a revision of Article XI of the Convention, "So as to enable Africans to become members of the Intergovernmental Copyright Committee".

Considering the fact that the Committee at its session in December 1967 revised its Rules of Procedure, and considering the fact that in consequence of this revision an African State was elected member of the Committee, the Danish Government is of the opinion that, even though a revision of Article XI might be desirable, such a revision does not constitute sufficient grounds for the convening of a revision conference.

Should a decision, however, be taken to carry through a revision of the Convention, the Danish Government with a view to this situation wishes to reserve the right to make proposals concerning revision of other articles of the Convention than the ones mentioned above, revisions aiming among other things at a general strengthening of the protection which the Convention imposes the contracting States to grant.

(Original: English)

FINLAND

Ministry for Foreign Affairs
of Finland

No. 11152

Helsinki, 29 March 1968

With reference to your letter DG/6/126/397 of 30 December 1966, concerning the revision of the Universal Copyright Convention, I have the honour to state as follows:

After the General Conference of Unesco adopted resolution 5.122 which concerns the convening of a conference to revise the Universal Copyright Convention, the situation with regard to the matters to be considered at the revision conference has changed. At the 1967 Stockholm conference on Intellectual Property a new protocol concerning developing countries was attached to the Bern Convention. Pending practical experience is gained from the implementation of this protocol it may be too early to take any steps in order to abrogate Article XVII of the Convention.

As to the revision of Article XI of the Convention, it should be taken into account that the Intergovernmental Copyright Committee at its meeting held in Paris [sic] from 12 to 15 December 1967, revised the Rules of Procedure to the effect that three African states were elected members of the Committee at the same meeting. Under these circumstances the revision of the article may not be of such an importance that a revision conference should be convened.

For the above-mentioned reason it would be advisable not to convene a revision conference to consider the articles mentioned above at this stage.

On the other hand, the Government of Finland supports resolution 59 (IX) of the Intergovernmental Copyright Committee on the establishment of a joint group to study problems associated with the various multilateral copyright conventions and the development of the international copyright.

The study performed by the group would give a better basis for the preparation of a revision conference on a new convention.

(Original: English)

FRANCE

The Permanent Delegate of France
to Unesco

Ref. 326 UN/INLA/PI

Paris, 8 November 1968

I refer to our correspondence concerning the convening of a conference for revision of the Universal Copyright Convention.

After receiving your letter of 15 February, the French Government informed you on 21 February of its reserves in this connexion.

The position now is that ten countries have given a favourable answer to the proposal for revision.

As Article XII of the Universal Copyright Convention provides that a procedure for revision shall be initiated if this is requested by ten States, it is thus apparent that the conditions under which such a procedure may be initiated are now fulfilled. That being the case, the French Government, for its part, has no objections.

(Translated from the French)

GERMANY (Federal Republic)

The Permanent Delegate
of the Federal Republic of Germany
to Unesco

Ref. IV 2-80.30/4

Paris, 4 September 1968

Subject: Universal Copyright Convention

Ref.: Your letter DG/6/126/23 of 15 February 1968

On behalf of my Government and with reference to your above-mentioned letter, I have the honour to communicate to you the following:

As the question of copyright in the developing countries is already covered by a special protocol to the Berne Convention, drawn up at the Stockholm Conference on Intellectual Property, and in view of the results of the joint meeting of the Intergovernmental Committee of the Universal Copyright Convention and of the Permanent Committee of the Berne Union, the Government of the Federal Republic of Germany is against any amendment to the Appendix Declaration relating to Article XVII of the Universal Copyright Convention. It supports the suggestion to set up a commission of experts to examine the Universal Copyright Convention with reference to the Berne Convention and especially the question of a possible modification of the Appendix Declaration relating to Article XVII of the Universal Copyright Convention.

(Translated from the French)

GHANA

Ministry of Education
ACCRA

Ref. No. UE 107/122

11 May 1967

I have to refer to your letter No. DG/6/126/397 dated 30 December 1966, and to inform you that Ghana supports the resolution, and considers it in the interest of the developing countries of the world. Further, it supports the idea that a conference be convened to revise the Convention.

(Original: English)

GUATEMALA

Ministry of Foreign Relations

Directorate of International
Treaties and Organizations

Ref. lem/783

Guatemala, 20 March 1968

I have the honour to refer to your letter No. DG/6/126/23, dated 15 February 1968, concerning the revision of the Universal Copyright Convention.

In this connexion, I have pleasure in informing you that the Co-ordinator with International Organizations of the Ministry of Education, by decision dated 23 January 1967, pronounced in favour of the revision advocated by the General Conference of Unesco, since "in that form the Convention will guarantee a minimum of protection of copyright in a larger number of countries where the use and dissemination of intellectual works will contribute to the improvement of human and living conditions which, in the end, will produce greater universal understanding - the source of peace and prosperity".

(Translated from the Spanish)

Ministry of Foreign Relations

Directorate of International
Treaties and Organizations

Ref. lem/1161

Guatemala, 9 May 1968

Allow me to say, in connexion with the matter on which you consulted us in your note No. INLA/COPY/126/68 dated 4 April, that if the convening of a conference for the revision of the Universal Copyright Convention will entail extra expenditure for the participating States, Guatemala will not be in favour of this, considering it better for the subject to be dealt with at the General Conference.

(Translated from the Spanish)

INDIA

Ministry of Education

Ref. F.21-20/66-UU

New Delhi, 29 February 1968

Subject: Universal Copyright Convention - Revision

I am directed to refer to your letter No. DG/6/126/191, dated 1 June 1967 on the subject mentioned above and to say, in confirmation of this Ministry's telegram of even number dated 29 February 1968 [...] that the Government of India support the resolution no. 5.122 adopted by the General Conference of Unesco at its fourteenth session held in October-November 1966 and suggest that a Revision Conference may be called for the purpose as urgently as possible.

(Original: English)

IRELAND

Department of Education

Ref. UN 92

Dublin, 11 May 1967

I wish to refer to your letter DG/6/126/397 dated 30 December 1966, in connexion with resolution 5.122 adopted by the fourteenth General Conference, regarding the question of the revision of the Universal Copyright Convention.

It is understood that the Permanent Committee of the Berne Union, which met in extraordinary session at Geneva from 14 to 16 March 1967, adopted a resolution which expressed the opinion that it would be premature to take a final position by 1 May 1967, on the question of a possible revision of the provisions of the Universal Copyright Convention dealing with the Berne Convention and decided to re-examine the question, after the Stockholm Conference, at the next ordinary session of the Committee scheduled for 12 to 15 December 1967, at Geneva.

In the circumstances, Ireland does not favour consideration of the question of convening a revision conference until after that date.

(Original: English)

ISRAEL

Director
International Organization Department
Ministry for Foreign Affairs

Jerusalem, 1 March 1968

[...] In the light of the Protocol adopted at the Stockholm Conference the Government of Israel does not see any pressing need for amendment of Article 17 of the Universal Copyright Convention.

Should, however, a revision conference be convened, the Government of Israel request that also the matters contained in the documents attached to our letter of 14 April 1967⁽¹⁾ be considered.

(Original: English)

ITALY

Ministry of Foreign Affairs
Italian Delegation for Agreements
on Intellectual Property

The Delegate

Ref. 157/000077

Rome, 1 March 1968

With reference to your letters of December 1966 and June 1967 and to letter No. DG/6/126/23 of 15 February last concerning the revision of the Universal Copyright Convention, I have the honour to inform you that I have been directed to communicate to you the following reply.

The Italian Government is in principle in favour of the revision of subparagraph (a) of the Appendix Declaration relating to Article XVII of the Universal Convention, as recently recommended, moreover, by a number of its experts at international meetings. This provision is no longer felt to be justified in view of the present make-up of the international community, whose ranks have been considerably swelled in recent years by new Member States that are nearly all developing countries. Similarly, it is thought that Article XI of the Universal Convention might also be amended.

However, it seems in the general interest that, before any such action be taken, the present position as regards international copyright should be examined very carefully, so as to prevent as far as possible any uncertainty or confusion arising in the future. Any such examination should take into account at least the following requirements: (a) any decision that is taken should serve to strengthen subsequent collaboration in the matter of copyright between the two chief international copyright organizations, rather than to create rivalry between them; (b) such collaboration should also aim at preventing international copyright regulations and their application from becoming any more complicated; (c) caution should be exercised before deciding upon any solution. We are now at an awkward juncture, where opinions may diverge rather than converge due to changes that occurred in the interpretation of various aspects of the problem as a whole in the period between the Stockholm Conference and the recent meeting in Geneva.

We would stress, in conclusion, that any decisions that are reached should give paramount consideration to the practical and prompt satisfaction of the needs of the developing countries.

(Translated from the French)

(1) Copies of this letter and its annexes are available.



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Vol. 2

JAPAN

Permanent Delegation of Japan
to Unesco

Ref. 24/68

Paris, 28 February 1968

With reference to your letter DG/6/126/191 of 1 June 1967 concerning the possible revision of the Universal Copyright Convention, I have the honour to transmit to you the observations of my Government as follows:

"As to a possible revision of Article XVII of the Universal Copyright Convention, the Japanese Government is of the opinion that after the adoption of the Protocol Regarding Developing Countries at the Stockholm Revision of the Berne Convention, there would be no longer any good reason to delete the safeguard clause in respect of the Berne Union and to change the present relationship between the Universal Copyright Convention and the Berne Convention. The Japanese Government is, however, in favour of referring the study of this question to a proposed joint study group of the Intergovernmental Copyright Committee and the Permanent Committee of the Berne Union".

(Original: English)

KENYA

Attorney-General's Chambers
NAIROBI

Ref. No. 91/3/1/108

21st January 1967

I am directed to inform you that the text of resolution 5.122 adopted by the General Conference of Unesco at its fourteenth session, which concerned the revision of the above Convention, has been studied with interest and that Kenya would wish to support the terms of such resolution.

I am also directed to state that it is the wish of this Government that a revision conference should be convened as soon as may be possible with a view to amending Article XVII and the appendix declaration of the Universal Copyright Convention.

(Original: English)

LUXEMBOURG

Ministry of Education
National Commission for
Co-operation with Unesco

Ref. B/67/32

Luxembourg, 17 January 1967

In your letter No. DG/6/126/397 of 30 December 1966 you asked for the opinion of the Luxembourg Government on resolution 5.122, adopted by the General Conference of Unesco at its fourteenth session, concerning the revision of the Universal Copyright Convention.

I duly referred your inquiry to the competent authorities, a photocopy of whose reply you will find attached.

Ministry of Economic
Affairs and Power

Luxembourg, 16 January 1967

"Returned to the Ministry of Education, National Commission for Co-operation with Unesco, with the comment that the problem raised by Unesco concerns two international copyright organizations, namely the Berne Union and Unesco. It therefore seems necessary to know the opinion of the first of these two organizations concerning the concession that is asked of the Berne Union (see page 2, first paragraph of the resolution).

Once the Department for Economic Affairs knows the views of the Berne Union, it will more easily be able to give its opinion on this problem, which is definitely one of general interest".

(Translated from the French)

MALAWI

Ministry of External Affairs
BLANTYRE

Ref. EA/50/23/02

1 June 1967

I have the honour to refer to your letter Ref. No. DG/6/126/397 of the 30th December 1966, concerning the revision of the Universal Copyright Convention relative to the appendix declaration relating to Article XVII and enclosing the text of a resolution adopted by the General Conference of Unesco on this subject.

With regard to the proposed revision of the Universal Copyright Convention, I am pleased to inform you that the Government of Malawi would favour the convening of a conference to draft such a revision to the Convention, but that Malawi has no specific comments to make about the wording of such a revision.

IGC/XR/2
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since this country is not directly affected by this problem. The Government of Malawi would, however, support any measures recommended or taken by Unesco to remove the present legal disability of those developing countries which are affected by the lack of protection under this Convention afforded to their intellectual works in countries party to the Berne Convention.

(Original: English)

...

NIGERIA

Unesco National Commission for Nigeria
Ministry of Education
LAGOS

12 April 1967

Ref. No. IEF 22/S.2/128

I am directed to refer to your letter No. DG/6/126/397 of 30 December 1966 and to convey the following information to you:

The Federal Military Government of Nigeria agrees in principle to the proposal to amend Article XVII and the appendix declaration relating to Article XVII of the Universal Copyright Convention so as to enable developing countries to enjoy unrestrictedly the protection guaranteed by the convention which ensures minimum rights of authors while permitting a wide dissemination of culture.

(Original: English)

[...]

NORWAY

Royal Ministry of
Foreign Affairs

Oslo, 4th April 1968

Ref. J.nr. 9578/68

I have the honour to refer to your circular letter of 15th February 1968 (DG/6/126/23) concerning resolution 5.122 adopted by the General Conference at its fourteenth session concerning the possible revision of the Universal Copyright Convention.

In the opinion of the competent Norwegian authorities the question of revising the Universal Convention should not be decided upon until it has been demonstrated within the next few years whether the protocol of the Berne Union has attained the practical importance aimed at.

The Norwegian Government consequently are not in favour of convening a revision conference at the present stage.

(Original: English)

(Original: English)

The Government of
taken by Unesco designed
countries which are af-
fording to their intellec-

PERU

Ministry of Education,
LIMA

Ref. No. 825

15 July 1967

I have pleasure in acknowledging the receipt of your letter of 1 June 1967, in which you repeat the request made in your letter No. DG/6/126/397 of 30 December 1966 concerning the opinion of my country in regard to the resolution on a possible revision of the Universal Copyright Convention.

After carefully examining the points put forward as grounds for the proposed suspension of the sanctions provided for in the appendix declaration relating to Article XVII of the Universal Convention, I wish to inform you that Peru is in favour of the convening of a revision conference.

(Translated from the Spanish)

PORTUGAL

Ministry for Foreign Affairs

Office of the Minister

Lisbon, 30 May 1968

With reference to your letters DG/6/126/397 and DG/6/126/191, of 30 December 1966 and 1 June 1967 respectively, concerning the possibility of a revision of the Universal Copyright Convention, I have the honour to inform you that the Portuguese Government's view, after due consideration, is that the system established in Article XVII of the Convention and in the Appendix Declaration is no longer justified, as it now appears discriminatory and inconsistent with the norms governing international agreements. The Portuguese Government therefore feels that it would be useful to convene a conference with a view to revision of the Convention.

(Translated from the French)

SPAIN

Permanent Delegation of
Spain to Unesco

Ref. No. 201

Paris, 22 November 1968

[...] I have pleasure in informing you that the opinion of the Spanish Government is favourable to the convening of a conference to revise the Universal Copyright Convention.

(Translated from the Spanish)

SWEDEN

Swedish National Commission for Unesco
Ministry of Education
International Secretariat

Stockholm, 28 February 1968

Ref. 184 U

With reference to your letter DG/6/126/191 dated 1 June 1967, concerning resolution 5.122 of the 1966 Unesco General Conference on a possible revision of the Universal Copyright Convention I have the honour to transmit the following observations on behalf of the competent Swedish authorities.

As host of the Stockholm Conference in 1967 the Swedish Government was responsible for the preliminary drafting of the new provisions which became inserted in the Berne Convention in the form of a special protocol regarding the developing countries. The principal aim of this protocol is to make it possible for developing countries to enter or to remain in the Berne Union without being obliged to grant full protection according to the Berne Convention for works originating from the developed countries.

The question whether there is a need for a modification of Article XVII of the Universal Copyright Convention since the adoption of the Stockholm Protocol, is to a very large extent dependent on the results of the practical application of this protocol in the next few years. The Swedish authorities therefore cannot agree to the convening of a conference in the near future for the revision of Article XVII of the Universal Convention.

As regards a possible revision of Article XI of the said Convention in order to enable African States to become members of the Intergovernmental Copyright Committee, the Swedish authorities wish to refer to the amendments made to the Rules of Procedure of this Committee in December 1967, as a consequence of which an African State (Kenya) was elected member of the Committee. In view of this fact the Swedish authorities do not consider that there is any imminent need at present for a revision of this Article of the Convention.

Should there be a decision in favour of a revision Conference, the Swedish Government may reserve the right to propose other modifications in the Convention that it may regard desirable.

(Original: English)

SWITZERLAND

Federal Political Department

Ref. No. 0.734.341 - Sy/ju

Berne, 22 February 1968

[...] We are directed by the appropriate Swiss authorities to give you their opinion, which is as follows:

"At the joint...
and the Permanent Co...
was decided to set up...
been referred to us b...
reference will be deci...
will meet, however, on...
the survey that BIRPI i...
intend to adopt in respec...
countries. This seems...
before deciding...
and esne...

the Joint ordinary meeting of the Intergovernmental Copyright Committee of the Berne Union, held last December in Geneva, it decided to set up a joint working group to study the question that has now been referred to us by Unesco. The group, whose composition and exact terms of reference will be decided at an extraordinary joint meeting of the two Committees, will meet, however, only after the completion of Unesco's consultations and of the survey that BIRPI is to conduct among Member States of the Berne Union, at the request of the Permanent Committee, in order to find out what position they intend to adopt in respect of the additional protocol relating to the developing countries. This seems to be an appropriate procedure and we await the results before deciding whether it would be expedient to revise the Universal Convention, and especially Article XVII of that Convention".

(Translated from the French)

UNITED STATES OF AMERICA

Department of State

Washington, 28 February 1968

In response to your letters No. DG/6/126/397, dated 30 December 1966, No. DG/6/126/191 dated 1 June 1967 and DG/6/126/23, dated 15 February 1968, the Government of the United States of America opposes the revision of the Appendix Declaration relating to Article XVII of the Universal Copyright Convention along the lines indicated in resolution No. 5.122 adopted by the General Conference of Unesco at its fourteenth session in 1966.

The Preamble of the Universal Copyright Convention (U.C.C.) sets forth, as one of the foundation stones on which the Convention rests, the conviction

...That a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts, ...
(underlining supplied).

As its negotiating history clearly shows, the Appendix Declaration of Article XVII, which is known informally as the "Berne Safeguard Clause", was drafted with great care with the single aim of preventing the "impairing of international systems already in force." My Government believes that deletion or substantial change in that provision would not only violate a cardinal principle of the U.C.C., the safeguarding of other conventions, but would violate commitments undertaken by the United States and the other signatories of the Geneva Act of 1952.

It is recognized that the international copyright situation has changed since 1952, but it would be ironic if the "Berne Safeguard Clause" were to be revised in the face of the very challenge it was designed to meet. It is also recognized that the needs of developing countries in this area are urgent, but my Government is convinced that revision of the Appendix Declaration would weaken both the Berne Convention and the U.C.C. without really meeting the needs of developing countries. If there were unmistakable sentiment among the membership of the Berne Union in favour of changing the safeguard provision in the U.C.C.,

the United States would be willing to reconsider its position. However, there is nothing to indicate that this sentiment exists at present, and close consultation with the Berne members would be necessary to determine their views on the point.

At the joint meetings of the Intergovernmental Copyright Committee and the Berne Committee held at Geneva in December 1967, a joint resolution was adopted calling for the convening of a joint group for the study of the entire international copyright situation. The United States believes strongly that revision of the Appendix Declaration of Article XVII of the U.C.C. or of any other provisions of that Convention would be premature at this time, and that the convening of any revision conference should await the results of the joint study group.

My Government also wishes to clarify one other point. The inquiries of the Director-General of Unesco on this question were limited to the revision of the Appendix Declaration of Article XVII as envisaged by the Unesco General Conference resolution. Thus the United States believes that the convening of a revision conference, or any similar action based on replies to the aforementioned Director-General's letters would necessarily have to be confined to that issue alone. There are other matters, notably the revision of Article XI, that also deserve careful consideration. For this reason my Government urges the convening of the joint study group envisaged by resolutions nos. 3 and 59 (IX) of the Joint Committee as soon as possible, and before any further action toward revision of the Appendix Declaration is undertaken.

(Original: English)

VENEZUELA

Permanent Delegation of
Venezuela to Unesco

Ref. 60(DG)

Paris, 24 November 1967

I have the honour to send you the attached note No. PI/OC/OM 8901 of the 9th instant, in which the Venezuelan Ministry of Foreign Affairs reports that the Government of the Republic considers it desirable to amend Article XVII of the Universal Copyright Convention and the Appendix Declaration, whose prohibitions and sanctions have consequences prejudicial to States Parties to the said Convention which have not withdrawn from the Berne Convention.

"Ministry of Foreign Affairs
Department of International Policy

Ref. PI/OC/OM 8901

Caracas, 9 November 1967

I have pleasure in referring to your letter DG/6/126/191 in which you request the opinion of the Government of Venezuela concerning resolution 5.133 [sic] adopted by the Unesco General Conference at its fourteenth session proposing a possible revision of the Universal Copyright Convention.

In this respect, I am
considers that it would be
right Convention and the
have consequences prejudi
withdrawn from the Berne Con
other developing nations. Co
opinion that it would be advi

However, there is a close consultation with the Committee and the views on the point. The Committee was adopted the entire revision of the Convention and the Convention. The Convention is of the opinion that it would be advisable to convene a special revision conference".

(Translated from the Spanish)

YUGOSLAVIA

Yugoslav National Commission
for Unesco

Belgrade, 29 May 1967

In reply to your letter No. DG/6/126/397 referring to resolution 5.122, adopted by the General Conference of Unesco at its fourteenth session and concerning the revision of the Universal Copyright Convention, I have the honour to inform you that the resolution and the question of the revision of the Convention have been studied by the appropriate authorities. Their opinion is that it is essential for the developing countries, and especially the African States, to have access to works of the mind, protected in such a way that the interests of these States are not harmed and that the widest dissemination and use of such works is ensured.

As to the possibility of amending the Universal Copyright Convention and convening an international revision conference, we feel we should wait for the Stockholm Conference to study the question of the revision of the Berne Convention, bearing in mind the need to improve the position of the developing countries in regard to the level of protection guaranteed by the Convention.

(Translated from the French)

MEMORANDUM

CONFIDENTIAL

CLASSIFICATION

5-19-4
12
Deputy Minister
Department of Consumer and Corporate Affairs

YOUR FILE No.
Notre dossier

OUR FILE No.
Notre dossier

DATE

The Commissioner of Patents

December 30, 1968

SECRET
Secret

International Copyright Meeting to be held in Paris from February 3rd to 7th 1969 - being a Joint Meeting of the Permanent Committee of the International Union for the Protection of Literary and Artistic Works (Berne Union) and the Intergovernmental Copyright Committee of the Universal Copyright Convention (U.C.C.)

1. The purpose of this memorandum is to bring to the attention of the Government the convening of this meeting and various recommendations we are making for your consideration in connection therewith. Canada is a member of both Unions and has been invited to attend by both participating Committees.
2. We are of the view that this meeting may initiate a series of discussions and conferences that may well lead to a new departure in international copyright and bring about the first major revision in international copyright law since the creation of the Universal Copyright Convention in 1952. Indeed, it can be expected that, as a result of this meeting, important changes in international copyright protection may well take place comparable to what may be expected to happen to the international patent system following the Diplomatic Conference scheduled in 1970 with respect to the Patent Cooperation Treaty. Although we consider the attendance by a Canadian delegation at the forthcoming Paris conference and the views to be expressed by such delegation are extremely important, we do not consider that Cabinet policy decisions are required at this early stage of the proceedings but rather that our proposed recommendations, following discussion, are a matter for ministerial decision.
3. The reason underlying the convening of this conference results principally from the attitude of the developing countries respecting copyright interests. The situation has become more acute since the 1967 Stockholm revision of the Berne Convention and, in particular, the Protocol attached thereto which forms part of that Convention. This Protocol (for complete text see appendix A) lessened in considerable degree copyright protection in any country "regarded as a developing country", and copyright protection in the developed countries was considered as thereby "threatened". Ratification of or adherence to the Stockholm revision now by developed countries automatically involves adherence to the Protocol; had the Protocol not been added to the treaty

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no agreement would likely have been reached at Stockholm with respect to the Revision as a whole. Well-prepared meetings held preparatory to Stockholm by the developing countries, led by India, made it politically difficult for the developed countries to reject the Protocol.

4. Since Stockholm, frustration on the part of the developing countries has increased. To date the only countries that have acceded to or ratified the Protocol are Senegal and East Germany. Copyright interests in all developed countries, including Canada, are strongly opposed to the accession by their governments to the Stockholm revision; and it would appear that this attitude will not change either immediately or in the future.

5. The number of developing countries at the International conference table, including attendances at international copyright conference has increased year by year; and it would appear that the developing countries in spite of their success at Stockholm through the enactment of the Protocol (although frustrated by the refusal of the developed countries to adhere to or to ratify it) have now turned to the possibility of obtaining a recognition of their claims for use of copyrightable material through the Universal Copyright Convention, a UNESCO sponsored international copyright Convention.

6. The developing countries are, however, blocked, at least temporarily, from amending the U.C.C. in a manner similar to that of the Stockholm Protocol in view of Article XVII and the Appendix Declaration relating to Article XVII of that Convention (see appendix B). Briefly, this Article and the Appendix Declaration provide specifically that the U.C.C. will not in any way affect the provisions of the Berne Convention and that any "works" which, according to the Berne Convention, have as the country of origin a country which has withdrawn from the Berne Convention shall not be protected by U.C.C. in countries of the Berne Union. This Article, and the related Appendix Declaration, are collectively known as the "safeguard clause" of the U.C.C. convention. Member countries of the Berne Union were insistent and unanimous on the absolute necessity of the safeguard clause being inserted in U.C.C. before adhering to or ratifying the U.C.C. Convention.

7. A sufficient number of developing countries have now legally signified their right to request the Intergovernmental Copyright Committee of U.C.C. to revise that convention, particularly and initially with a view to amending Article XVII and the related Appendix Declaration (an expanded resumé of these matters concerning the background of the two conventions etc. is attached hereto as Appendix "C").

8. To bring order into this situation and to prevent as far as possible a confrontation between the developed and developing countries with respect to international copyright matters the two

Committees of U.C.C. and Berne on December 15th, 1967, called for the establishment of the composition and terms of reference of a Joint Study Group to investigate the problem and attempt to find a solution which would then be presented to the two Committees for consideration and approval.

9. The meeting at Paris is designed to set up this Joint Study Group which will be composed of representatives both favourable to Berne or favourable to the U.C.C.; and, in any event, representative of both the developed and developing countries.

10. In our view, and we believe that we are sustained in this by representatives of the Department of External Affairs, Canada at the Paris meeting should press for membership in the Joint Study Group to be appointed. Not only have we important copyright interests in Canada which object strongly to the government adhering to the provisions of the Stockholm Protocol, but also Canada has an interest in providing assistance to the developing countries in all matters that might be of help to them. Should Canada not be named a member of the Study Group, there is very little that it could do at a later stage following the report of that Group to the respective Committees; and we therefore feel strongly that concern should be shown in doing everything possible between now and the date of the Paris meeting to ensure Canada's appointment to the Joint Study Group. It is of interest to note at this point that the Ilsley Commission, in its Report on Copyright, 1957, although it did not consider that Canada should join the Brussels Revision of the Berne Convention (a step higher than the Rome Revision to which Canada has acceded which, in turn, is a step lower than the Stockholm Revision) nevertheless was emphatic that Canada should participate more seriously at international copyright conventions and implied that failure to do so in the past had resulted in steps having been taken that were adverse to the Canadian public interest.

11. We therefore propose the following recommendations for consideration:

- 1 That Canada send a delegation to the Paris meeting, and that one member of the delegation be an official from the Department of External Affairs; and that, in any event, Mr. Jacques Corbeil, a junior officer of the Department presently at Geneva, be also authorized to attend;
- 2 That no representatives from the private sector be authorized to attend this particular meeting as a member of the Canadian delegation;
- 3 That Canada at the meeting urge the creation of a Joint Study Group comprising not less than membership from 25 countries in order to ensure that Canada be named as a participant in the Joint Study Group;

- 4 That between now and the date of the Paris meeting the Department of External Affairs take every possible step to urge other countries to support Canada's bid for membership in the Joint Study Group through the appropriate diplomatic channels.
- 5 That, pending the completion of the report of the Joint Study Group, Canada suspend any decision on any proposed amendment to U.C.C. or accession to the Stockholm Revision and Protocol thereto;
- 6 That Canada in any discussion relating to the selection of members to the Joint Study Group support a balance between the developing and developed countries provided there is an appropriate degree of interest in the subject of copyright shown by the countries concerned;
- 7 That Canada support any suggestion made that the Joint Study Group should have a secretariat composed equally of representatives of both Berne and the U.C.C.;
- 8 That Canada should not oppose at the Paris meeting any suggestion that may be brought forward by any delegation which recommends a single copyright convention to replace both Berne and U.C.C., which suggestion might also provide different levels of protection for different countries.
- 9 That the matter of Canada being represented at the Paris meeting, together with these recommendations, not be referred to the Economic Council of Canada at this time; but that if Canada is named a member of the Joint Study Group the Economic Council of Canada be invited to make representations to the Government of what it considers the position Canada should take during these conferences;
- 10 That if Canada is named to the Joint Study Group as a member the position Canada should take should be determined under Cabinet direction;
- 11 That an interim interdepartmental committee on copyright matters be established to discuss these matters between now and the date of the Paris meeting, it being understood that later such a committee might be altered and/or expanded and, in any event, recognized by ministerial authority for a study of all copyright matters including copyright with respect to satellite communication, adherence to the World Intellectual Property Organization (WIPO) and the eventual revision of the Copyright Act. It is recommended that, as a beginning, the members of such a committee should represent

the Department of External Affairs, the C.B.C., the National Film Board, the National Library, with a senior official from the Patent & Copyright Office acting as Chairman.

A.M. Laidlaw

A.M. Laidlaw