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August 19, 1971.

MEMORANDUM FOR THE MINISTER

Diplomatic Conference to Adopt an International  
Convention on the Protection of Phonograms,  
Geneva, October 18-29, 1971

-- The Department of Consumer and Corporate Affairs has submitted to this Department for comment the attached draft memorandum on Canadian participation in the above conference which, it is proposed, you and Mr. Basford should submit jointly to Cabinet. I am in general agreement with the line taken in the draft as regards the composition of the Canadian delegation and the position which it should adopt at the conference. I am concerned, however, at recommendation 11.(c) of the draft in which it is proposed that two private sector organizations be invited to nominate advisers to the delegation, providing that these organizations bear the expense of their representatives' participation.

You will recall that in the case of the conference to revise international copyright arrangements which was held in Paris last month, as a result of Mr. Basford's concern, it was agreed not to send any non-governmental representatives at governmental expense. You will also recall the difficulties to which this policy gave rise with regard to the attendance at this conference of representatives of the Canadian Copyright Institute and the Société Canadienne-Française de Protection du Droit d'Auteur. I believe that to adopt this position in regard to all international intergovernmental conferences would be most undesirable and would require a fundamental change in the composition of Canadian delegations to various United Nations and other international conferences. For the diplomatic conference on phonograms, I think that if it is deemed desirable to invite the two private organizations in question to nominate advisers to the delegation, then the government should be prepared to bear the cost of their participation. Because of Mr. Basford's concern, it is unlikely that Consumer and Corporate Affairs would wish to bear this expense and

*James [Signature]*

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26.8.19/551 [Signature]

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(f) The interests of record manufacturers and performers will be involved at this Conference and representatives from the Canadian Record Manufacturers' Association and Le Fédération des Auteurs et des Artistes du Canada may wish to attend as advisers to the Canadian Delegation.

accordingly I propose that recommendation 11(c) be altered so that it would read:

"That the Minister of Consumer and Corporate Affairs and the Secretary of State for External Affairs be authorized to invite the two private sector organizations which have a genuine interest in the conference, namely the Canadian Record Manufacturers Association and the Fédération des Auteurs et des Artistes du Canada, to nominate one representative each as advisers to the delegation, the expenses of such advisers to be borne by the Department of External Affairs from its International Conferences vote."

I would also propose one further recommendation be included in the draft Memorandum for Cabinet and a very minor revision be made to the Instructions. To accord with subparagraph 2 of the Instructions, an additional recommendation (f) should read, "that authority be obtained from the Governor General-in-Council, for the head of delegation or deputy head of delegation, to sign, subject to ratification, the Treaty adopted at the Conference, provided the text is consistent with the Instructions contained in Appendix A". In subparagraph 2 of the Instructions I would propose that the words "and that signing does not mean or imply accession" be deleted and the words "subject to ratification" be added after "text" in the first line.

Finally you will note that the draft Memorandum under the heading, "Federal-Provincial Relations Considerations" states that "it appears there is no need to involve provincial authorities in this Conference." Although copyright is a matter which falls within the exclusive jurisdiction of the federal government under the BNA Act, you may be aware that the Province of Quebec has on a previous occasion expressed an interest in Canada's international activities in this field because of the ~~connection~~ connection between copyright and cultural affairs generally. I think it would be useful therefore, if I were to suggest to officials of the Department of Consumer and Corporate Affairs that they examine carefully the provisions of the Convention on Protection of Phonograms with a view to determining whether any provincial government

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agency or body may conceivably have an interest in the Convention and consequently, as a matter of courtesy, might be notified of Canadian participation in the October Conference.

If you agree, I will inform the Deputy Minister of Consumer and Corporate Affairs of your agreement with this draft, subject to the above changes and comments.

P.T.

P. T.

- (f) The interests of record manufacturers and performers will be involved at this Conference and representatives from the Canadian Record Manufacturers' Association and Le Fédération des Auteurs et des Artistes du Canada may wish to attend as advisors to the Canadian Delegation.

LE 16 AOUT 71

PAUL TREMBLAY

SOUS-SECRETARE D'ETAT

MINISTERE DES AFFAIRES EXTERIEURES

OTTAWA

55-19-4-Berne-1969

NOUS AVONS TRANSMIS COPIE DE LA DEPECHE QUE NOUS VOUS ENVOYIONS LE 20 JUILLET DE MEME QUE DE LA REPONSE QUE VOUS NOUS AVEZ ADRESSEE LE 22 JUILLET AUX AUTORITES DU MINISTERE DES AFFAIRES CULTURELLES. NOUS CROYONS IMPORTANT DE VOUS FAIRE CONNAITRE L'ESSENTIEL DE LEUR REACTION.

"IL EST CERTES CONSOLANT, NOUS A-T-ON FAIT SAVOIR, POUR CEUX QUE PREOCUPE LA DIFFUSION DU LIVRE ECRIT EN FRANCAIS, A CAUSE DES VALEURS QU'IL EXPRIME, DE SAVOIR QUE "L'ARTICLE 91 (23) DE L'ACTE DE L'AMERIQUE DU NORD BRITANNIQUE ACCORDE AU PARLEMENT CANADIEN LA JURIDICTION EXCLUSIVE SUR LES DROITS D'AUTEUR". NOUS LE SAVIONS DEJA. JE N'AI PAS SOUVENIR QUE NOUS L'AYONS CONTESTE."

PAR AILLEURS, IL NOUS FAUT CONTESTER TOUT A FAIT VOTRE AFFIRMATION SUIVANT LAQUELLE "IL N'EXISTE PAS D'ORGANISATION GOUVERNEMENTALE PROVINCIALE S'OCCUPANT EXCLUSIVEMENT DE CES QUESTIONS". LE SERVICE DES LETTRES ET DU LIVRE AU MINISTERE DES AFFAIRES CULTURELLES DU QUEBEC EST, A NOTRE CONNAISSANCE, LE SEUL ORGANISME GOUVERNEMENTAL QUE CES QUESTIONS PREOCCUPENT: IL EXISTE POUR S'INTERESSER A TOUT CE QUI CONCERNE LE LIVRE ET LES ECRIVAINS.

ACTION COPY

Fel... 21/8/71

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FAC PDS

historique

Journal de la correspondance

copie envoyée à

FCO

Durmus - plus

continuer le dialogue

At

16.8.22

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IL EST ASSEZ ETONNANT QUE VOTRE GOUVERNEMENT AIT CRU UT  
\*\*CONSULTER UN GRAND NOMBRE D'ORGANISATIONS PRIVEES REPRESENTANT  
TANT LES AUTEURS ET LES PLUS IMPORTANTES MAISONS D'EDITIONS,  
ET QU'IL N'AIT PAS JUGE BON DE CONSULTER LE MINISTERE DES AFFAIRES  
FAIRES CULTURELLES QUI REUNIT UNE BONNE EQUIPE D'EXPERTS LA-  
DESSUS.

SI COMME ON PEUT LE PREVOIR, LES ORGANISMES PROFESSIONNELS RE-  
PROCHAIENT AUX DIVERS GOUVERNEMENTS D'AVOIR NEGLIGE CETTE  
QUESTION, LES AUTORITES QUEBECOISES, DISPOSANT DE VOTRE DEPECHE  
DU 22 JUILLET, POURRAIENT EXPLIQUER POURQUOI, MALGRE NOTRE  
INTERET, NOUS AVONS ETE AMENES A NE PAS PARTICIPER AUX RECENTES  
DISCUSSIONS QUI ONT EU LIEU A PARIS.

RECEVEZ, MONSIEUR LE SOUS-SECRETAIRE D'ETAT, L'EXPRESSION DE  
MES SENTIMENTS LES MEILLEURS.

CLAUDE MORIN

SOUS-MINISTRE AUX AFFAIRES INTERGOUVERNEMENTALES