WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO)

RECORDS OF THE INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM

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EDITOR’S NOTE

These Records of the Intellectual Property Conference of Stockholm, 1967, contain all the official documents in relation to the Conference which were issued before and during the Conference. By “official documents” is meant documents which were published by the United International Bureaux for the Protection of Intellectual Property (BIRPI), either in their capacity of organizer of the Conference—in some cases jointly with the Swedish Government—or in their capacity of secretariat of the Conference.

In addition to the official documents issued for the Conference, the present Records contain, under the heading “Situation at the Time of the Opening of the Conference (June 11, 1967),” some background material facilitating the understanding of the preparatory documents distributed before the opening of the Conference (also included under the same heading). Such background material consists of the texts of the two Conventions (Paris and Berne) and the five Agreements (Madrid (Trademarks), Madrid (False Indications), The Hague, Nice and Lisbon) whose revision was one of the tasks of the Conference, as well as the lists of those States which were party to the said Conventions and Agreements at the time the Conference started, that is, on June 11, 1967. Three points should be noted in connection with the texts reprinted under the said heading. The first is that they are reproduced in English only although the authentic version is the French version; the latter being reproduced in the French edition of the present Records. The second is that on June 11, 1967, some States were bound, as they still are early in 1970, at the time of printing these lines, by older versions (“Acts”) of the Paris or Berne Conventions, or of the two Madrid Agreements, or the Hague Agreement, than the version reproduced here. These older versions are not reproduced here because (subject to what is said below about the Hague Agreement) the basis of the Stockholm revision was only the most recent Acts. Consequently, it is the Acts which were most recent at the time the Conference opened that are reproduced here. The third point to be noted is that one of the Acts reproduced here was not then in force, and still is not in force at the time of publication of the present Records. That Act is the 1960 (Hague) Act of the Hague Agreement.

The reason for which it is included is that the Complementary Act of Stockholm to the Hague Agreement refers not only to those Acts of that Agreement which are in force (namely, the 1934 Act and the 1961 Additional Act) but also to the 1960 Act. Among the papers which were issued before the Conference, the present Records distinguish between “Preparatory Documents” and “Invitations.”

The number of Preparatory Documents is twelve. They contain proposals submitted to the Conference concerning the action it might wish to take. Two of the documents deal with the Berne Convention, two with the Paris Convention, five with each of the five Agreements, one with what has become the Convention Establishing the World Intellectual Property Organization, one with proposals for resolutions on transitional matters, and one with proposals concerning the ceilings of contributions in the Paris and Berne Unions. In connection with these documents—numbered S/1 to S/12 (“S” standing for Stockholm)—the following three points deserve special mention. First, two of the documents (those dealing with the substantive provisions of the Berne and Paris Conventions, S/1 and S/2) were prepared by the Government of Sweden with the assistance of BIRPI, whereas the other ten were prepared by BIRPI. Second, the reason for which there are two documents for the revision of the Berne Convention and two for the revision of the Paris Convention is that one of each pair deals with the provisions relating to substantive law (copyright and indus-
which started on June 11, 1967. These texts are: the Convention Establishing the World Intellectual Property Organization, the Stockholm Acts of the Paris and Berne Conventions, the Stockholm Acts (either entire or additional or complementary) of the five Special Agreements under the Paris Convention, and the "Final Act" of the Conference.

The Convention Establishing the World Intellectual Property Organization was signed in four languages: the English and the Russian texts are reproduced here; the French and the Spanish texts are reproduced in the French edition of the present Records.

The Stockholm Act of the Berne Convention was signed in English and in French. The English text is reproduced in the present Records, whereas the French text is reproduced in the French edition of the present Records.

The Acts relating to the Paris Convention and the five Agreements thereunder were signed in French only. These Records contain both the French texts and the English translations. The latter were prepared by BIRPI after the Conference in consultation with the Governments of those Member States (if any) whose official language is, or whose official languages include, the English language. It is to be noted that there are some differences between the English translations of the pre-Stockholm versions published in Volume I of these Records and the English translations of the Stockholm texts published in Volume II, even in connection with passages the French version of which was not changed by the Stockholm Conference. The differences are due to an effort to render the French original more faithfully than did the English translations in use before the Stockholm Conference.

Thus, it is to be noted that the texts published under the heading "Signed Texts" contain, as far as the Paris Convention and the Agreements thereunder are concerned, not only the signed (French) texts but also their English translations, which were not signed.

As far as all signed texts are concerned, it is to be noted that in the present Records obvious mistakes of transcription were corrected. These mistakes are specified or appear in the certified copies which were sent to the Governments of all States invited to the Stockholm Conference and which may be ordered from the World Intellectual Property Organization.

Finally, the Records contain the two Decisions and the four Recommendations which the competent organs of the Stockholm Conference adopted in addition to the texts signed.

It is to be noted that the present Records are published also in French.

Furthermore, the hesitation which characterized the attitude of the 1965 Committee of Governmental Experts towards the solutions presented or suggested has provided sufficient reason for believing that none of them would be likely to solve the problem completely or to win general support.

In drawing up the Programme of the Conference, it was felt that none of these proposals could be considered as acceptable, for the above-stated reasons. After further study of the questions relating to moral rights in cinematographic works, it appeared that the settlement of this problem should not be undertaken within the framework of the Convention. It has therefore not been considered necessary to include any proposals on this point in the Programme of the Conference.

**ARTICLES 21 TO 31**

**Programme of the Conference.** As indicated above (see p. 12), the Stockholm Conference might also have to consider the question of a structural and administrative reform of the Union. The adoption of any such reform would involve amendments to Articles 21 to 31 of the Convention, i.e., the administrative provisions and the final clauses.

The proposals in this connection would be the subject of a separate Programme, and reference should be made on this point to the documentation which will be submitted later. This documentation cannot be prepared, however, before consulting the Second Committee of Governmental Experts on Administration and Structure, which will meet in May 1966 to examine, in connection with the proposals for a structural and administrative reorganization of the Berne Union (and the Paris Union), proposals concerning the administrative provisions (Articles 21 to 24) and the final clauses (Articles 25 to 31) of the Convention.

*No amendments are proposed for Articles 14bis to 20.*

### IV. DRAFT PROTOCOL REGARDING DEVELOPING COUNTRIES

During the preparatory work, one of the most important tasks of the Revision Conference was considered to be the establishment of rules for the benefit of developing countries. In 1964, the Study Group proposed provisions to that effect in a new Article 25bis, giving these countries the right to make reservations with respect to the provisions of the Convention on certain points. The 1965 Committee of Governmental Experts approved the substance of the provisions presented. It was suggested, however, within the Committee, that these provisions should not be inserted in the Convention itself but should be the subject of a Protocol annexed to it. Accordingly, when the Programme of the Conference was drawn up, it was considered advisable to adopt this procedure. The texts proposed for the benefit of developing countries have therefore been incorporated in this Protocol. Reference would be made in the final clauses of the Convention to the fact that this instrument forms an integral part of the Convention.

**Preparatory Work.** In its 1964 Report, the Study Group pointed out that special provisions for the benefit of developing countries had been called for on several occasions, notably in the following circumstances:

1. The African Study Meeting on Copyright, held at Brazzaville in August, 1963, recommended, among other things, that in the course of the preparations for the Stockholm Conference the following should be considered: (i) a review of Article 7 concerning the term of protection, with a view to the reduction of this term; (ii) the amendment of Article 20, with a view to making possible bilateral agreements promoting exchanges, in derogation of the present text of that provision; and (iii) the inclusion of special provisions safeguarding, on the one hand, the interests of African countries in respect of their own folklore, and permitting, on the other hand, the free use of protected works for educational and scholastic purposes.

2. The 1963 Committee of Experts hoped that these questions would be examined by the Study Group or by a special expert committee to be convened for that purpose.

3. At their joint session in New Delhi in December 1963, the Permanent Committee and the Inter-governmental Copyright Committee, having heard the proposals of the Indian delegation that there should be a study of the possibility (a) of introducing into the Conventions the right of member countries to grant compulsory licences for the reproduction of copyright works for educational purposes, and (b) of introducing into the Berne Convention provisions relating to translation, similar to those in the Universal Copyright Convention, invited the Secretariats to make a study of these questions and report on them to the next joint session of the Committees.

4. Some non-governmental international organizations also expressed the hope that the developing countries would be able to organize protection on a lower level than that provided by the Brussels text of the Berne Convention.

The Study Group was of the opinion that rules satisfying the wishes thus expressed should be inserted in the Convention and, to that end, proposed to include them in a new Article 25bis, worded as follows:

"(1) Any country which desires to accede to this Convention but which, with regard to its economic situation and its social needs, does not consider itself immediately in a position to make provision for the protection of all the rights forming the object of this Convention, may, by a notification deposited with the at the time of accession, declare that it will, for a period of ten years from the accession,

(a) substitute for Article 8 of this Convention the provisions of Article 5 of the Convention as revised in Paris in 1896, on the understanding that these provisions shall apply only to translations into the language or languages of that country;

(b) substitute for Article 7 of this Convention the provisions of Article 7 of the Convention as revised in Rome in 1928;"
(c) substitute for Article 11bis, paragraphs (1) and (2), of this Convention the provisions of Article 11bis of the Convention as revised in Rome in 1928;

(d) reserve to itself to determine the regulations for the protection of works covered by this Convention when such works are used for exclusively educational or scholastic purposes;

(e) reserve the right to make arrangements in derogation of Article 20 of this Convention.

A country may avail itself of one, several or all of the reservations made above.

(2) If a country, which has made reservations in accordance with paragraph (1), at the end of the period of ten years prescribed therein, with regard to its economic situation and social needs, still does not consider itself in a position to make provision for the protection of all the rights forming the object of this Convention, such country may, by a notification deposited with the . . . . . . . before the end of the above-mentioned period, declare that it will maintain for a new period of ten years, one, several or all of the reservations made by the country.

(3) If a country, which has made reservations in accordance with paragraphs (1) or (2), in the course of a current period, would come in such a position that it does no longer need the reservations made, or one or several of them, the country shall, by a notification deposited with the . . . . . . . withdraw the reservation of which it has no need.

(4) All notifications given to the . . . . . . . in accordance with the provisions of paragraphs (1), (2) and (3) of this Article shall be communicated by the . . . . . . . to all the countries of the Union."

The Study Group emphasized that the majority of those concerned had admitted that exceptional measures for the benefit of developing countries were in principle justified. The objection had of course been made that if those countries found themselves unable to organize protection as effective as accession to the Berne Convention would imply, they ought to become parties to the Universal Copyright Convention, instead of the Berne Convention. There was no doubt, however, that the adoption by the developing countries of copyright legislation within the framework of the Berne Convention would be of considerable advantage to the authors. Conditions in several of these countries would certainly eventually improve and one could not be certain that this development would not be the consequence of the exploitation of literary and artistic works. In these circumstances, it would naturally be to the authors’ advantage if the protection granted to them had been organized from the start on the pattern of the Berne Convention.

As for the placing and general structure of the proposed provisions, the Study Group chose to adopt a system entailing those countries to make reservations, within limits, with respect to some of the rules of the Convention. This solution owed its inspiration to the fact that the Convention already contains a provision allowing for national reservations, which was of course designed especially for the benefit of the less developed countries. The provision in question is contained in Article 25, paragraph (3), which offers the possibility of making reservations with respect to the right of translation.

The Study Group thought it desirable that the new provisions should operate only for the benefit of developing countries. It found it difficult however to establish criteria suitable for defining objectively the countries coming within this category. It consequently proposed that each country should be left free to decide whether its stage of development allowed it to take advantage of the right of reservation. It seemed possible, up to a point, to invoke, by way of a precedent, the provision in Article 23 concerning the right granted to each country of the Union to choose the contribution class in which it wishes to be placed.

The reservations would be valid for ten years and could be extended for a further period of ten years. The question whether the reservations might be extended beyond that date would have to be settled by the Revision Conference after the one held at Stockholm. Furthermore, a reservation might be withdrawn when the country availing itself of such reservation considered that it no longer had any need of it.

The Study Group made the following comments on the proposed reservations:

(a) The first of these reservations would correspond to the provision in Article 25, paragraph (3), on the right of translation. No alteration has been made to the wording of the Brussels text. The fact that the provision has changed its place, however, means that the right of reservation would be more restricted than hitherto, because the new Article would only operate in favour of developing countries. In this respect, the proposal submitted represents a strengthening of copyright.

(b) The second possible reservation would concern the term of protection. On this point, the Brussels text fixes a compulsory minimum of fifty years from the date of the author’s death. This stipulation was considered to be too rigid for developing countries, and the proposal submitted would offer them the possibility of substituting for it the Rome text, which contains no compulsory provisions on the term of protection.

(c) The third reservation would concern the right of radio-diffusion. This prerogative was extended at the Brussels Conference, so that its scope is now very considerable. It applies, for instance, to the use of receiving sets in cafés, etc. It was considered reasonable to grant to developing countries the possibility of applying the rules of the Rome text here, instead of those of the Brussels text, that is to say, to give them the possibility of protecting this right within the limits which were considered adequate for industrialized countries between 1930 and 1940.

(d) The fourth reservation would concern the right to limit copyright in cases where a work is used for educational or scholastic purposes. Developing countries seem to attach great importance to the possibility of reserving to themselves the right to determine their own national regulations in such cases.

(e) The fifth reservation would relate to the right of developing countries to make between each other regional arrangements in the field of copyright. According to Article 20, regional arrangements can only be made on condition that they confer upon authors more extended rights than those granted by the Convention. However, the developing countries expressed the wish to be given the right to make arrangements between each other, even if the above condition were not fulfilled. The proposed text is intended to offer them this possibility.

Finally, with regard to folklore, the Study Group did not propose any special rules. Indeed, as pointed out by the Brazzaville Meeting, the best means of protecting the integrity of this heritage known as folklore would be the adoption by African States of appropriate legislation to prevent its exploitation to the detriment of the African communities. The Study Group shared this opinion and ventured to point out that, even although there are no special provisions on folklore in the Berne Convention, it is clear that the latter puts no obstacles in the way of national legislation on the subject. It recalled that some countries of the Union had introduced protection of classic works, without taking their stand on the Convention. At the 1965 Committee of Governmental Experts, the subject was opened by a general discussion during which several delegations representing developed and developing countries expressed their sympathies with any measures taken for the benefit of the developing countries and with the general idea which had formed the basis of the Study Group’s proposals. One delegation expressed its preference for the drafting of a Protocol to be annexed to the Convention; but this suggestion was not adopted by the Committee. Two delegations pointed out that it was important not to avoid establishing a system of protection in the Convention that was inferior to that provided at present by the Universal Copyright Convention. It was observed, in particular, with regard to the Universal Copyright Convention, that the relations governed by that international instrument, and indeed its whole future, must not be jeopardized, even indirectly. Some delegations from developing countries stressed how important it was for the future of the Berne Union that special measures should be adopted to meet the wishes and aspirations of these countries.

The Committee was then presented with a proposal from six developing countries (hereinafter called the “joint proposal”), submitting a new wording for Article 25bis. Although based on the text presented by the Study Group, the new wording differed from it on a number of points. It seemed to the Committee that the various questions posed by Article 25bis should be clearly distinguished: (1) the criterion of beneficiaries; (2) the data on which a country might base its claim to make reservations; (3) the time when countries would be able to make reservations; (4) the period during which such reservations would be valid; and (5) the nature of the reservations themselves.

1. With regard to the criterion of beneficiaries, the joint proposal stipulated that “Any country of the Union may, having regard to its economic, scientific, social and cultural needs, declare at any time” (a) a given reservation will apply. It was emphasized that it was important not to limit the possibility of making reservations which countries would accord in the future to the Convention. The Study Group pointed out, however, that adherence to the present Convention,” in the form of ratification or accession, meant accession to the Stockholm text.
emphasized the difficulty of verifying whether the uses were made exclusively on the territory concerned. Yet another drew attention to the reproduction of works, not only in the local languages of the country (dialects and others), but also in the language generally spoken.

Recalling the work of the Permanent Committee in New Delhi (1965), it was pointed out during the discussion that such a right with respect to reproduction ought not to be general in scope but should refer to certain works used for specific purposes. It was proposed that this reservation, as presented in the joint proposal, should be removed from Article 25bis and the following words should be added to the preceding reservation on the restriction of protection: "including the right to permit their reproduction on payment of just remuneration to be fixed, failing agreement with the author, by its competent authority."

However, the Committee finally expressed its preference for a general formula, couched in the following terms: "the right, for exclusively educational, scientific or scholastic purposes, to restrict the protection of literary and artistic works."

(e) With regard to special arrangements, the joint proposal had suggested that countries fulfilling the conditions of the proposed Article 25bis should have the right to make such arrangements with any other country of the Union, in derogation of Article 20 of the Convention. Some delegations observed, on the one hand, that the right to make arrangements could only operate between countries making reservations and, on the other hand, that it would be difficult, at the risk of throwing the Convention out of balance, to permit arrangements with any country whatsoever. One delegation proposed to grant to countries making reservations the right to make regional arrangements, in derogation of Article 20 of the Convention, with other countries applying the provisions of the Article in question and without prejudicing the obligations of other countries of the Union.

The delegation of one developing country proposed drafting the text as follows: "reserve the right to make arrangements with any other country of the Union in derogation of Article 20 of this Convention, on condition that the arrangement concerns solely works the country of origin of which is a country party to that arrangement and relates only to the reservations mentioned above, such condition being operative only if a developed country is party to the said arrangement." Other delegations emphasized that it was only necessary for developing countries to have the right to make bilateral agreements if these countries felt they needed such agreements to enable them to descend even further below the levels fixed by the various reservations. After a lengthy discussion, the last-mentioned text was adopted by the Committee.

The other provisions of Article 25bis, as presented by the Study Group, gave rise to no comments and the Committee adopted this Article in the following terms:

(1) Any developing country which ratifies this Convention or accedes to it and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights forming the object of this Convention, may, by a notification deposited with the ... at the time of ratification or accession, declare that it will, for a period of ten years from the ratification or accession,
(a) substitute for Article 8 of this Convention the provisions of Article 5 of the Convention as revised in Paris in 1896, in respect of translations into the language or languages of that country, and apply the same provisions to the translations referred to in paragraphs (2) of Article 11;
(Alternative: text based on Article V of the Universal Copyright Convention.)
(b) substitute for Article 7 of this Convention the provisions of Article 7 of the Convention revised in Rome in 1928;
(Alternative: text based on Article IV of the Universal Copyright Convention.)
(c) substitute for Article 11bis, paragraphs (1) and (2), of this Convention the provisions of Article 11bis of the Convention as revised in Rome in 1928;
(d) reserve the right, for exclusively educational, scientific or scholastic purposes, to restrict the protection of literary and artistic works;
(e) reserve the right to make arrangements with any other country of the Union in derogation of Article 20 of this Convention, on condition that the arrangement concerns solely works the country of origin of which is a country party to that arrangement and relates only to the reservations mentioned above, such condition being operative only if a developed country is party to the said arrangement.

Any country fulfilling the conditions referred to above may avail itself of one, several or all of the reservations provided above.

(2) If a country, which has made reservations in accordance with paragraph (1), at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still not consider itself in a position to make provision for the protection of all the rights accruing to the object of this Convention, such country may, by a notification deposited with the . . . before the end of the above-mentioned period, declare that it will maintain, until the entry into force of the text of this Convention adopted by the next Revision Conference, one, several or all of the reservations made by the country.

(3) If a country, which has made reservations in accordance with paragraphs (1) or (2), finds itself, in the course of a current period, in such a position that it has no longer need of the reservations made, or of one or several of them, the country shall, by a notification deposited with the . . . , withdraw the reservation of which it has no need.

(4) All notifications given to the . . . in accordance with the provisions of paragraphs (1), (2) and (3) of this Article shall be communicated by the . . . to all the countries of the Union."

After this decision, one delegation representing a developing country presented a declaration regrets that the text adopted for Article 25(bii) by the Committee limited the scope of arrangements to the reservations expressly mentioned. It suggested deleting this limitation and reserved the right to take up the question again at the Revision Conference. The delegation also expressed the wish that the Study Group would examine the possibility of restoring, in the form of a reservation in Article 25(bii), the existing text of Article 9, paragraph (3), and extending it to the right of translation, in view of the interest which developing countries had in having to have articles on current economic, political or religious topics translated and reproduced by the press.

Programme of the Conference. The desire for special rules for the benefit of developing countries, which has been expressed on many sides in recent years, is founded on the need to allow exceptions to copyright protection — at least for an interim period — to facilitate cultural, social and educational expansion in these countries. On the basis of the proposal presented by the Study Group, the 1965 Committee of Governmental Experts devoted lengthy discussions to the problem as a whole.

No great objection was made to the incorporation of rules of exception in the system of protection under the Convention. The debate was concerned rather with the manner in which these rules ought to be drafted. The questions discussed were of considerable complexity and subject to controversy. It was obvious, however, that there was a strong desire on the part of the Committee to reach compromise solutions acceptable to all. In these circumstances, it was felt that the Committee’s recommendations should form the basis of the regulations now proposed in the Programme of the Conference. Amendments have been made to some points only.

First, as regards the place where these rules should be inserted, the Committee had proposed that they form the subject of a new Article in the Convention. When drawing up the Programme of the Conference, however, it was decided, in response to a wish expressed within the Committee, that it would be more appropriate to place these rules in a Protocol annexed to the Convention, especially as they were to be in force for an interim period only and were not intended to be incorporated permanently in the system of protection provided by the Convention. Besides, the rules are fairly extensive and, for purely stylistic reasons, it seemed advisable not to make the text of the Convention unnecessarily unwieldy. In order to provide a link with the Convention itself, however, the final clauses of the Convention would refer to the Protocol, stating that it formed an integral part of the Convention. This would be stated in an Article numbered 25(bii) in the present proposals relating to the final clauses (see, supra, p. 66).

With regard to the drafting of the special provisions, the said Committee approved the proposal for exceptions under (a) (translation) and (b) (term of protection), but recommended that developing countries should be offered the alternative of adopting rules which corresponded to those in force for similar cases in the Universal Copyright Convention. The Committee also approved the proposal that these special provisions should not result in a level of protection inferior to that of the Universal Convention.

In the case of the exception under (a) (translation), it was felt that the provisions proposed by the Study Group and approved by the Committee (provisions which corresponded to those of Article 25, paragraph (3), of the Berne Convention) would in fact offer less protection than the system provided by the Universal Copyright Convention. It was therefore considered advisable to propose the adoption of that system in the Programme of the Conference rather than the aforementioned provisions of the Berne Convention. The Programme therefore provides the developing countries concerned with the possibility of substituting for Article 8 of the Berne Convention (Stockholm text) provisions identical to those relating to the right of translation in the Universal Copyright Convention (Article V).

In the case of the exception under (b) (term of protection), it was also felt that the provisions proposed by the Study Group and approved by the Committee (which would offer to developing countries the possibility of substituting for Article 7 of the Convention in the Stockholm text the provisions of Article 7 in the Rome text) might offer less protection than that provided by the Universal Copyright Convention. The Programme proposes therefore to allow the developing countries concerned to adopt, in principle, the term of protection provided under that Convention. According to the provision presented, a developing country may stipulate a shorter term than that of fifty years or, in some cases, twenty-five years, referred to in Article 7 of the Convention, but these terms must not be less, respective, than the terms of twenty-five and ten years fixed by the Universal Convention (Article IV). As for the dates from which these terms and other conditions are to be calculated, the rules provided under Article 7 of the Convention shall apply.

In the case of the exceptions under (c) (radiodiffusion, etc.) and (d) (for exclusively educational, scientific or scholarly purposes), the Committee’s proposal has been adopted without change in the Programme of the Conference.

The exception mentioned under (e) of the Committee’s proposal, concerning the right of developing countries to make special arrangements in derogation of Article 20 of the Convention, was greeted with some reticence when the Programme of the Conference was being drawn up. The arrangements in question would be made between countries of the Union which limit the protection of copyright in various respects. From the technical angle, these arrangements may be classified in two categories: (a) those providing for limitations on copyright protection permissible under the Convention or the proposed Protocol and those intended to provide for wider restrictions. Arrangements such as those in the first category, which will probably be most frequent, must of course be allowed, but they need no special support other than that given to Article 20 of the Convention. Arrangements of the second category, however, would indeed, be regarded as "contrary to the Convention" within the meaning of that Article, in view of the fact that the Protocol will form an integral part of the Convention. As regards the second category — arrangements restricting protection beyond the limits of the Convention and the Protocol — it should be observed that such arrangements could lower copyright protection to any level whatsoever and might even abolish it completely in the case of those works to which they referred. In drawing up the Programme of the Conference, it was regarded as impossible to permit such arrangements.

It follows therefore that, on the one hand, exceptions concerning special arrangements are not necessary in the case of arrangements including only such restrictions as are permitted by the Convention and the Protocol and that, on the other hand, they are unacceptable in the case of arrangements including wider restrictions. For these reasons, the exception proposed under (e) does not figure in the Programme of the Conference.

The exceptions suggested under (a), (b), (c) and (d) of the Committee’s proposal have therefore been adopted and it is further proposed — subject to approval by the Conference of the proposal to delete the provisions of Article 9, paragraph (2), concerning the right freely to reproduce press articles (see p. 44) — to grant to developing countries which will accede to the Stockholm text, or will ratify the right to continue to apply these provisions although they have been removed from the Convention. Recommendations to that effect were put forward to the 1965 Committee. In support of these recommendations, it should be pointed out that a country which is already a member of the Union (by accession to the Brussels text or an older text) is entitled to apply the provisions concerned and will continue to possess this right until it
V. DRAFT ADDITIONAL PROTOCOL CONCERNING THE PROTECTION OF THE WORKS OF STATELESS PERSONS AND REFUGEES

Programme of the Conference. As indicated in connection with Article 4, paragraph (2), the Study Group had proposed in its 1963 and 1964 reports that stateless persons and refugees having their habitual residence in one of the countries of the Union should be assimilated to nationals of that country, for the purposes of the Convention. The 1965 Committee of Governmental Experts recommended that the provisions on this subject should be transferred to an Additional Protocol so that their application would be optional. When the Programme of the Conference was drawn up, this was considered to be the most appropriate solution.

The proposed Additional Protocol contains, therefore, a rule in Article 1 with respect to assimilation. Article 2 stipulates, in accordance with a suggestion made to the 1965 Committee of Governmental Experts, that countries of the Union may, at the time of deposit of their instrument of ratification or accession, declare that they intend to apply the provisions of the Protocol only to stateless persons, or only to refugees. Article 3 of the Protocol will contain the provisions concerning its ratification, or accession to it, by countries of the Union, as well as other final clauses. The proposals concerning these clauses will be presented later in a separate document (see, supra, p. 12).

Additional Protocol Concerning the Protection of the Works of Stateless Persons and Refugees

**BRUSSELS TEXT**

- [See Annex III, page 97.]

**PROPOSED TEXT**
ANNEX II

PROTOCOL REGARDING DEVELOPING COUNTRIES

Article 1

Any developing country which ratifies or accedes to the Act to which this Protocol is annexed and which, having regard to its economic situation and its social or cultural needs, does not consider itself immediately in a position to make provision for the protection of all the rights as provided in the Act, may, by a notification deposited with the ......... 1, at the time of ratification or accession, comprising Article 20bis 2 of the Act declare that it will, for a period of the first ten years during which it is a party thereto, avail itself of any or all of the following reservations:

(a) substitute for Article 8 of this Convention the following provisions: if, after the expiration of a period of seven years from the date of the first publication of a literary, scientific or artistic work, a translation of such work has not been published into the national language or languages of that country by the owner of the right of translation or with his authorization, any national of such country may obtain a non-exclusive licence from the competent authority to translate the work and publish the work so translated in any of the national languages in which it has not been published; provided that such national, in accordance with the procedure of the country concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A licence may also be granted on the same conditions if all previous editions of a translation in such language are out of print.

If the owner of the right of translation cannot be found, then the applicant for a licence shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the country of which such owner is a national, or to the organization which may have been designated by the government of that country. The licence shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application.

Due provision shall be made by domestic legislation to assure to the owner of the right of translation a compensation which is just and conforms to international standards, to assure payment and transmittal of such compensation, and to assure a correct translation of the work.

The original title and the name of the author of the work shall be printed on all copies of the published translation. The licence shall be valid only for publication of the translation in the territory of the country of the Union where it has been applied for. Copies so published may be imported and sold in another country of the Union if one of the national languages of such other country is the same language as that into which the work has been so translated, and if the domestic law in such other country makes provision for such licences and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a country of the Union shall be governed by its domestic law and its agreements. The licence shall not be transferred by the licensee.

The licence shall not be granted when the author has withdrawn from circulation all copies of the work;

(b) substitute for the term of fifty years referred to in paragraphs (1), (2) and (3) of Article 7 of this Convention a different term, provided that it shall not be less than twenty-five years; and substitute for the term of twenty-five years referred to in paragraph (4) of the said Article a different term, provided that it shall not be less than ten years;

1 See footnote on p. 83.
2 See footnote on p. 72.
(c) reserve the right to apply the provisions of paragraph (2) of Article 9 of the Convention as revised at Brussels in 1948;

(d) substitute for paragraphs (1) and (2) of Article 11bis of this Convention the provisions of Article 11bis of the Convention as revised at Rome in 1928;

(e) reserve the right, for exclusively educational, scientific or scholastic purposes, to restrict the protection of literary and artistic works.

Any country fulfilling the conditions referred to above may avail itself of one, several or all of the reservations provided above.

Article 2

A country, which has made reservations in accordance with Article 1, and which at the end of the period of ten years prescribed therein, having regard to its economic situation and its social or cultural needs, still does not consider itself in a position to make provision for the protection of all the rights forming the object of the Act, may, by a notification deposited with the ………………, before the end of the above-mentioned period, declare that it will maintain, until the entry into force of the Act adopted by the next Revision Conference, any or all of the reservations made by the country.

Article 3

A country which no longer needs to maintain any or all of the reservations made in accordance with Article 1 or 2 shall withdraw such reservation or reservations by notification deposited with the ……………….

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ANNEX III

ADDITIONAL PROTOCOL TO THE BERNE CONVENTION as revised at Stockholm on July …, 1967, concerning the protection of the works of stateless persons and refugees

The countries of the Union becoming parties to this Protocol have agreed to the following provisions:

Article 1

Stateless persons and refugees having their habitual residence in one of the countries of the Union shall, for the purposes of the Convention as revised at Stockholm on July …, 1967, be assimilated to the nationals of that country.

Article 2

Any country may, at the time of deposit of its instrument of ratification or accession, declare that it shall apply the provisions of this Protocol only to stateless persons, or only to refugees.

Article 3

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3 See footnote on p. 83.

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