

めに適法に行われた録音又は録画を用いて行う放送を含む。において、専ら(ii)の目的のために使用されること。

(iv) その翻訳の使用が、営利性を有しないこと。

(b) この(9)の規定によつて与えられた許可に基づいて放送機関が行つた翻訳の録音又は録画は、当該許可を与えた権限のある機関が属する国に主たる事務所を有する他の放送機関も、(a)に定める目的及び条件で、かつ、その翻訳を行つた放送機関の同意を得て、使用することができる。

(c) 許可は、(a)に定める基準及び条件が満たされることを条件として、専ら教育活動において使用されるために作成されかつ発行された視聴覚的固定物と一体となつてゐる本文の翻訳のためにも、放送機関に与えることができる。

(d) (1)から(8)までの規定は、(a)から(c)までの規定に従うことを条件として、この(9)の規定に基づいて与えられる許可の付与及び行使について適用する。

### 第三条

(1) この条に定める権能を利用することを宣言した同盟国は、権限のある機関がこの条に定める条件でかつ次条の規定に従つて与える非排他的かつ譲渡不能の許可の制度をもつて、この改正条約第九条に規定する排他的複製権の代わりとすることができ。

(2) (a) (7)の規定に従つてこの条の規定が適用される著作物については、その著作物のある特定の版の複製物が、その版の

b) Des enregistrements sonores ou visuels d'une traduction qui a été faite par un organisme de radiodiffusion sous l'empire d'une licence accordée en vertu du présent alinéa peuvent, aux fins et sous réserve des conditions énumérées dans le sous-alinéa a) et avec l'accord de cet organisme, être aussi utilisés par tout autre organisme de radiodiffusion ayant son siège dans le pays dont l'autorité compétente a accordé la licence en question.

c) Pourvu que tous les critères et conditions énumérés au sous-alinéa a) soient respectés, une licence peut également être accordée à un organisme de radiodiffusion pour traduire tout texte incorporé dans une fixation audiovisuelle faite et publiée aux seules fins de l'usage scolaire et universitaire.

d) Sous réserve des sous-alinéas a) à c), les dispositions des alinéas précédents sont applicables à l'ordon et à l'exercice de toute licence accordée en vertu du présent alinéa.

### Article III

1) Tout pays qui a déclaré qu'il invoquera le bénéfice de la faculté prévue par le présent article sera habilité à substituer au droit exclusif de reproduction prévu à l'article 9 un régime de licences non exclusives et intransmissibles, accordées par l'autorité compétente dans les conditions énoncées et conformément à l'article IV.

2) a) A l'égard d'une œuvre à laquelle le présent article est applicable en vertu de l'alinéa 1) et lorsque, à l'expiration

最初の発行の日から起算して次の(i)又は(ii)のいずれかの期間が満了した後においても、複製権を有する者又はその者の許諾を得た者により、(1)に規定する同盟国において同種の著作物に通常付される価格と同程度の価格でその国において一般公衆に又は教育活動のために頒布されていない場合には、その国の国民は、教育活動における使用のため、その価格又は一層低い価格でその版を複製しかつ発行するための許可を受けることができる。

(i) (3)に定める期間

(ii) その国の法令が定める一層長い期間

(b) (a)に規定する頒布が行われた場合において、その頒布に係る版の許諾を得た複製物が、(a)に規定する期間の満了の後に、当該国において同種の著作物に付される価格と同程度の価格で当該国において一般公衆に又は教育活動のために六箇月の間頒布されていないときは、その版を複製しかつ発行するための許可を、この条に定める条件で与えることができる。

(3) (2)(a)(i)という期間は、五年とする。ただし、

(i) 自然科学及び科学技術に関する著作物については、三年とする。

(ii) 小説等のフィクション、詩、演劇用の著作物、音楽の著作物及び美術書については、七年とする。

(4) (a) この条の規定に基づく許可は、三年の期間の満了を条件として受けられる許可については、次のいずれかの日から六箇月の期間が満了するまで、与えてはならない。

(i) 許可を申請する者が次条(1)の手続を行った日

i) de la période fixée à l'alinéa 3) et calculée à partir de la première publication d'une édition déterminée d'une telle œuvre, ou  
ii) d'une période plus longue fixée par la législation nationale du pays visé à l'alinéa 1) et calculée à partir de la même date.

des exemplaires de cette édition n'ont pas été mis en vente, dans ce pays, pour répondre aux besoins, soit du grand public, soit de l'enseignement scolaire et universitaire, par le titulaire du droit de reproduction ou avec son autorisation, à un prix comparable à celui qui est en usage dans ledit pays pour des œuvres analogues, tout ressortissant dudit pays pourra obtenir une licence pour reproduire et publier cette édition, à ce prix ou à un prix inférieur, en vue de répondre aux besoins de l'enseignement scolaire et universitaire.

b) Une licence pour reproduire et publier une édition qui a été mise en circulation comme le décrit le sous-alinéa a) peut aussi être accordée en vertu des conditions prévues par le présent article si, après l'expiration de la période applicable, des exemplaires antérieurs de cette édition ne sont plus en vente, pendant une durée de six mois, dans le pays concerné pour répondre aux besoins, soit du grand public, soit de l'enseignement scolaire et universitaire, à un prix comparable à celui qui est demandé dans ledit pays pour des œuvres analogues.

3) La période à laquelle se réfère l'alinéa 2)b) est de cinq années. Toutefois,

i) pour les œuvres qui traitent des sciences exactes et naturelles et de la technologie, elle sera de trois années;  
ii) pour les œuvres qui appartiennent au domaine de l'imagination, telles que les romans, les œuvres poétiques, dramatiques et musicales, et pour les livres d'art, elle sera de sept années.

4) a) Dans le cas où elle peut être obtenue à l'expiration d'une période de trois années, la licence ne pourra être accordée en vertu du présent article avant l'expiration d'un délai de six mois

i) à compter de la date à laquelle le requérant accomplit les formalités prévues par l'article IV 1);

- (ii) 複製権を有する者又はその者の住所が明らかでない場合には、許可を申請する者が、許可を与える権限のある機関に提出した許可の申請書の写しを次条(2)に定めるところに従つて発送した日
- (b) 三年の期間以外の期間の満了を条件として受けられる許可の場合において次条(2)の規定が適用されるときは、許可は、申請書の写しの発送の日から三箇月の期間が満了するまで、与えてはならない。
- (c) (a)又は(b)の六箇月又は三箇月の期間内に(2)(a)に規定する頒布が行われた場合には、この条の規定に基づく許可を与えてはならない。
- (d) 著作者が複製及び発行のための許可が申請された版の頒布中の複製物をすべて回収した場合には、許可を与えてはならない。
- (5) 次の場合には、著作物の翻訳を複製しかつ発行するための許可をこの条の規定に基づいて与えてはならない。
  - (i) その翻訳が、翻訳権を有する者により又はその者の許諾を得て発行されたものでない場合
  - (ii) その翻訳が、許可が申請された国において一般に使用されている言語によるものでない場合
- (6) 著作物のいずれかの版の複製物が、複製権を有する者により又はその者の許諾を得て、(1)に規定する同盟国において同種の著作物に通常付される価格と同程度の価格でその国において一般公衆に又は教育活動のために頒布される場合において、その版が、許可に基づいて発行された版と同一の言語によるものであり、かつ、ほぼ同一の内容のものであるとき

ii) ou bien, si l'identité ou l'adresse du titulaire du droit de reproduction n'est pas connue, à compter de la date à laquelle le requérant procède, comme prévu à l'article IV(2), à l'envoi des copies de la requête soumise par lui à l'autorité qui a compétence pour accorder la licence.

b) Dans les autres cas et si l'article IV(2) est applicable, la licence ne pourra être accordée avant l'expiration d'un délai de trois mois à compter de l'envoi des copies de la requête.

c) Si, durant le délai de six ou de trois mois visé aux sous-articles a) et b) la mise en vente comme le décrit l'article 5(b) a eu lieu, aucune licence ne sera accordée en vertu du présent article.

d) Aucune licence ne peut être accordée lorsque l'auteur a retiré de la circulation tous les exemplaires de l'édition pour la reproduction et la publication de laquelle la licence a été demandée.

5) Une licence en vue de reproduire et de publier une traduction d'une œuvre ne sera pas accordée, en vertu du présent article, dans les cas ci-après:

i) lorsque la traduction dont il s'agit n'a pas été publiée par le titulaire du droit de traduction ou avec son autorisation;

ii) lorsque la traduction n'est pas faite dans une langue d'usage général dans le pays où la licence est demandée.

6) Si des exemplaires d'une édition d'une œuvre sont mis en vente dans le pays visé à l'article 1) pour répondre aux besoins, soit du grand public, soit de l'enseignement scolaire et universitaire, par le titulaire du droit de reproduction ou avec son autorisation, à un prix comparable à celui qui est en usage dans ledit pays pour des œuvres analogues, toute licence accordée en vertu du présent article prendra fin si cette édition est dans la même langue et son contenu essentiellement le même que celle et celui de l'édition publiée en vertu de la licence. La mise en circulation de tous les exemplaires déjà produits avant l'expiration de la licence pourra se poursuivre jusqu'à leur épuisement.

は、この条の規定に基づいて与えられた許可は、消滅する。許可の消滅前に既に作成された複製物は、それが無くなるまで引き続き頒布することができる。

(7) (a) (b)の規定が適用される場合を除くほか、この条の規定が適用される著作物は、印刷その他類似の複製形式で発行された著作物に限定される。

(b) この条の規定は、適法に作成された視聴覚的固定物であつて保護を受ける著作物であるもの又は保護を受ける著作物を収録したものを視聴覚的形式で複製すること及びそれと一体となつている本文を許可が申請された国において一般に使用されている言語に翻訳することについても、適用する。ただし、当該視聴覚的固定物が、専ら教育活動において使用されるために作成されかつ発行されたものであることを条件とする。

## 第四条

(1) 第二条又は前条の許可は、許可を申請する者が、権利を有する者に対し翻訳及びその翻訳の発行若しくは版の複製及び発行の許諾を求めたが拒否されたこと又は相当な努力を払つたが権利を有する者と連絡することができなかったことを当該国の規則に従つて立証する場合に限り、与えることができる。許可を申請する者は、権利を有する者に対し許諾を求めると同時に、(2)に規定する国内的又は国際的情報センターにその旨を通報しなければならない。

(2) 許可を申請する者は、権利を有する者と連絡することがで

7) a) Sous réserve du sous-alinéa b), les œuvres auxquelles le présent article est applicable ne sont que les œuvres publiées sous forme imprimée ou sous toute autre forme analogue de reproduction.

b) Le présent article est également applicable à la reproduction audio-visuelle de fixations licites audio-visuelles en tant qu'elles contiennent ou incorporent des œuvres protégées ainsi qu'à la traduction du texte qui les accompagne dans une langue d'usage général dans le pays où la licence est demandée, étant bien entendu que les fixations audio-visuelles dont il s'agit ont été conçues et publiées aux seules fins de l'usage scolaire et universitaire.

### Article IV

1) Toute licence visée à l'article II ou à l'article III ne pourra être accordée que si le requérant, conformément aux dispositions en vigueur dans le pays en cause, justifie avoir demandé au titulaire du droit l'autorisation de faire une traduction et de la publier ou de reproduire et publier l'édition, selon le cas, et n'a pu obtenir son autorisation, ou, après duses diligences de sa part, n'a pu l'obtenir. En même temps qu'il fait cette demande au titulaire du droit, le requérant doit en informer tout centre national ou international d'information visé à l'alinéa 2).

2) Si le titulaire du droit n'a pu être atteint par le requérant, celui-ci doit adresser, par la poste avertie, sous pli

きなかつた場合には、著作物にその名を表示されている発行者に対し、及び発行者がその主たる事務所を有していると推定される国の政府が事務局長に寄託した通告で指定した国内的又は国際的情報センターに対し、許可を与える権限のある機関に提出した申請書の写しを書留航空便で送付する。

(3) 第二条又は前条の規定によつて与えられた許可に基づいて行われた翻訳又は複製に係るすべての複製物には、その発行に際し、著作者の名が表示されていなければならない。これらの複製物には、著作物の題名を表示するものとする。翻訳の場合には、これらの複製物に著作物の原題名を表示しなければならない。

(4) (a) 第二条又は前条の規定に基づいて与えられる許可は、複製物の輸出には及ばないものとし、それが申請された国の領域内で翻訳又は複製に係る複製物を発行することについてのみ有効とする。

(b) (a)の規定の適用上、いずれかの領域からその領域について第一条(5)の規定に基づく宣言を行った国への複製物の送付は、輸出とみなす。

(c) 第二条の規定に基づき英語、スペイン語及びフランス語以外の言語への翻訳の許可を与えた国の政府機関その他の公の機関がその許可に基づいて発行された翻訳の複製物を他の国に送付する場合には、その複製物の送付は、次のすべての条件が満たされるときは、(a)の規定の適用上、輸出とみなさない。

(i) 受取人が、当該許可を与えた権限のある機関が属する国の国民であること又はそのような国民から成る団体で

recommandé, des copies de la requête soumise par lui à l'autorité qui a compétence pour accorder la licence, à l'éditeur dont le nom figure sur l'œuvre et à tout centre national ou international d'information qui peut avoir été désigné, dans une notification déposée à cet effet auprès du Directeur général, par le Gouvernement du pays ou l'auteur est présumé avoir le siège principal de ses opérations.

3) Le nom de l'auteur doit être indiqué sur tous les exemplaires de la traduction ou de la reproduction publiée sous l'empire d'une licence accordée en vertu de l'article II ou de l'article III. Le titre de l'œuvre doit figurer sur tous ces exemplaires. S'il s'agit d'une traduction, le titre original de l'œuvre doit en tout cas figurer sur tous ceux-ci.

4) a) Toute licence accordée en vertu de l'article II ou de l'article III ne s'étend pas à l'exportation d'exemplaires et elle ne sera valable que pour la publication de la traduction ou de la reproduction, selon le cas, à l'intérieur du territoire du pays où cette licence a été demandée.

b) Aux fins de l'application du sous-alinéa a), doit être regardé comme exportation, l'envoi d'exemplaires à partir d'un territoire vers le pays qui, pour ce territoire, a fait une déclaration conformément à l'article I.5b).

c) Lorsqu'un organisme gouvernemental ou tout autre organisme public d'un pays qui a accordé, conformément à l'article II, une licence de faire une traduction dans une langue autre que l'anglais, l'espagnol ou le français envoie des exemplaires de la traduction publiée en vertu d'une telle licence à un autre pays, une telle expédition ne sera pas considérée, aux fins du sous-alinéa a), comme étant une exportation si toutes les conditions suivantes sont remplies:

- i) les destinataires sont des particuliers ressortissants du pays dont l'autorité compétente a accordé la licence, ou des organisations groupant de tels ressortissants;
- ii) les exemplaires ne sont utilisés que pour l'usage scolaire, universitaire ou de la recherche;
- iii) l'envoi des exemplaires et leur distribution ultérieure aux destinataires n'ont aucun caractère lucratif; et
- iv) le pays auquel les exemplaires ont été envoyés a conclu un accord avec le pays dont l'autorité compétente a délivré la licence pour en autoriser la réception, ou la distribution, ou ces deux opérations, et le Gouvernement de ce dernier pays a notifié au Directeur général un tel accord.

あること。

(ii) その複製物が、教育又は研究のためにのみ使用されること。

(iii) その複製物の送付及びその後の受取人への頒布が、営利性を有しないこと。

(iv) その複製物が送付された国が、当該許可を与えた権限のある機関が属する国との間でその複製物の受領若しくは頒布又はその双方を許可することについて合意しており、かつ、当該許可を与えた権限のある機関が属する国の政府がその合意を事務局長に通告していること。

(5) 第二条又は前条の規定によつて与えられた許可に基づいて発行されたすべての複製物には、その許可が適用される国又は領域においてのみその複製物が頒布されるものである旨の表示を適当な言語で記載しなければならない。

(6) 次のことを確保するため、適当な国内措置をとる。

(i) 許可が、翻訳権又は複製権を有する者のため、二の關係国における関係者の間で自由に取り決める利用の許諾の場合に通常支払われる使用料の基準に合致する公正な補償金を伴うこと。

(ii) (i)の補償金の支払及び移転が行われること。通貨に関する国内規制が存在する場合には、権限のある機関は、国際的に交換可能な通貨又はこれに相当するものによる補償金の移転を確保するため、国際的な機構を利用してあらゆる努力を払う。

(b) 著作物の正確な翻訳又は版の正確な複製を確保するため、国内法令により適当な措置をとる。

5) Tout exemplaire public sous l'empire d'une licence accordée en vertu de l'article II ou de l'article III doit contenir une mention dans la langue appropriée précisant que l'exemplaire n'est mis en circulation que dans le pays ou le territoire auquel l'autre licence s'applique.

6 a) Des mesures appropriées seront prises sur le plan national pour que

i) la licence comporte en faveur du titulaire du droit de traduction ou de reproduction, selon le cas, une rémunération équitable et conforme à l'état des relations normalement venues dans le cas de licences librement négociées entre les intéressés dans les deux pays concernés; et

ii) soient assurés le paiement et le transfert de cette rémunération, s'il existe une réglementation nationale en matière de devises, l'autorité compétente ne ménagera aucun effort, en recourant aux mécanismes internationaux, pour assurer le transfert de la rémunération en monnaie internationalement convertible ou en son équivalent.

b) Des mesures appropriées seront prises dans le cadre de la législation nationale pour que soit garantie une traduction correcte de l'œuvre ou une reproduction exacte de l'édition dont il s'agit, selon le cas.

## 第五条

翻訳権に  
関する留  
保宣言

(1) (a) 第二条に定める権能を利用することを宣言することができる国は、この改正条約を批准し又はこれに加入する際に、その宣言の代わりに次の宣言を行うことができる。

(i) この改正条約第三十条(2)(a)の規定が適用される同盟国については、翻訳権に関し、その規定に基づく宣言

(ii) この改正条約第三十条(2)(a)の規定が適用されない国（同盟に属しない国でないものを含む。）については、同条(2)(b)の第一文に規定する宣言

(b) 第一条(1)に規定する開発途上にある国でなくなつた同盟国については、この(1)の規定に基づいて行われた宣言は、同条(3)の規定に従つて適用される期間が満了する日まで効力を有する。

(c) この(1)の規定に基づいて宣言を行つた同盟国は、その後は、その宣言を撤回した場合にも、第二条に定める権能を利用することができない。

(2) 第二条に定める権能を利用した同盟国は、その後は、(1)の規定に基づく宣言を行うことができない。もつとも、(3)の規定の適用が妨げられることはない。

(3) 第一条(1)に規定する開発途上にある国でなくなつた同盟国は、同条(3)の規定に従つて適用される期間の満了の二年前までは、その国が同盟に属しない国でないという事実にかかわらずこの改正条約第三十条(2)(b)の第一文の規定に基づく宣言を行うことができる。その宣言は、第一条(3)の規定に従つて

## Article V

1) e) Tout pays habilité à déclarer qu'il invoquera le bénéfice de la faculté prévue par l'article II peut, lorsqu'il ratifie le présent Acte ou y adhère, au lieu de faire une telle déclaration,

i) faire, s'il est un pays auquel l'article 30(2)(a) est applicable, une déclaration aux termes de cette disposition pour ce qui concerne le droit de traduction;

ii) faire, s'il est un pays auquel l'article 30(2)(a) n'est pas applicable et même s'il n'est pas un pays étranger à l'Union, une déclaration comme prévu par l'article 30(2)(b);

b) Dans le cas d'un pays qui a cessé d'être considéré comme un pays en voie de développement tel que visé à l'article 1(1), une déclaration le déclarant tel que visé à l'article 1(1), une déclaration le déclarant tel que visé à l'article 1(1), une déclaration le déclarant tel que visé à l'article 1(1).

c) Tout pays qui a fait une déclaration conformément au présent Acte ne peut retirer ultérieurement le bénéfice de la faculté prévue par l'article II, même s'il retire ladite déclaration.

2) Sous réserve de l'alinéa 3), tout pays qui a invoqué le bénéfice de la faculté prévue par l'article II ne peut faire ultérieurement une déclaration conformément à l'alinéa 1).

3) Tout pays qui a cessé d'être considéré comme un pays en voie de développement tel que visé à l'article 1(1) pourra, deux ans au plus tard avant l'expiration du délai applicable conformément à l'article 13), faire une déclaration au sens de l'article 30(2)(b), première phrase, nonobstant le fait qu'il ne s'agit pas d'un pays étranger à l'Union. Cette déclaration prendra effet à la date à laquelle expire le délai applicable conformément à l'article 13).

適用される期間が満了する日に効力を生ずる。

## 第六条

(1) 同盟国は、この改正条約の作成の日からこの改正条約第一条から第二十一条までの規定及びこの附属書に拘束されることとなる時まではいつても、次のことを宣言することができる。

(i) 当該同盟国が、この改正条約第一条から第二十一条までの規定及びこの附属書に拘束されるとしたならば第一条(1)に規定する権能を利用することができるであろう国の場合には、(ii)の規定に従い第二条若しくは第三条若しくはその双方の規定の適用を認める国又はこの改正条約第一条から第二十一条までの規定及びこの附属書に拘束される国を本国とする著作物について、第二条若しくは第三条又はその双方の規定を適用すること。もつとも、その宣言において、第二条の規定に代えて前条の規定を適用する旨を述べることができる。

(ii) 自国を本国とする著作物について、(i)の規定に基づく宣言又は第一条の規定に基づく通告を行つた国がこの附属書を適用することを認めること。

(2) (1)の規定に基づく宣言は、書面によつて行うものとし、事務局長に寄託する。宣言は、寄託の日に効力を生ずる。

## Article VI

1) Tout pays de l'Union peut déclarer, à partir de la date du présent Acte et à tout moment, avant de devenir lié par les articles 1 à 21 et par la présente Annexe :

- i) s'il s'agit d'un pays qui, s'il était lié par les articles 1 à 21 et par la présente Annexe, serait habilité à invoquer les dispositions de l'article II ou de l'article III, qu'il bien des cas, les œuvres dont le pays d'origine est un pays qui s'applique au point ii) ci-dessus, accepte l'application de ces articles au point ii) ci-dessus, ou qui ait lié par les articles 1 à 21 et par la présente Annexe, une telle déclaration peut se référer à l'article V au lieu de l'article II;
- ii) qu'il accepte l'application de la présente Annexe aux œuvres dont il est le pays d'origine, par le pays qui ont fait une déclaration en vertu du point i) ci-dessus ou une notification en vertu de l'article I.

2) Toute déclaration selon l'alinéa 1) doit être faite par écrit et déposée auprès du Directeur général. Elle prend effet à la date de son dépôt.



一九七一年にパリで改正された著作権に関するベルヌ条約

以上の証拠として、下名は、正当に委任を受けて、この改正条約に署名した。

千九百七十一年七月二十四日にパリで作成した。

(署名欄省略)

# Berne Convention for the Protection of Literary and Artistic Works

of September 9, 1886.

completed at PARIS on May 4, 1886, revised at BERLIN on November 13, 1908, completed at BERNE on March 20, 1914, and revised at GENEVE on June 2, 1928, at BRUSSELS on June 26, 1948,

at STOCKHOLM on July 14, 1967,  
and at PARIS on July 24, 1971

The countries of the Union, being equally animated by the desire to protect, in an effective and uniform a manner as possible, the rights of authors in their literary and artistic works.

Recognizing the importance of the work of the Revision Conference held at Stockholm in 1967,

Have resolved to revise the Act adopted by the Stockholm Conference, while maintaining without change Articles 1 to 20 and 22 to 26 of that Act.

Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

## Article 1

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

## Article 2

(1) The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works in which are assimilated works expressed by processes analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are

assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been fixed in some material form.

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) It shall be a matter for legislation in the countries of the Union to determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts.

(5) Collections of literary or artistic works, such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this Article shall enjoy protection in all countries of the Union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7(4) of this Convention, it shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works.

(8) The protection of this Convention shall not apply to news of the day or to miscellaneous facts having the character of mere items of press information.

## Article 20

(1) It shall be a matter for legislation in the countries of the Union to exclude, wholly or in part, from the protection provided by the preceding Article, political speeches and speeches delivered in the course of legal proceedings.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which

lectures, addresses and other works of the same nature which are delivered in public may be reproduced by the press, broadcast, communicated to the public by wire and made the subject of public communication as envisaged in Article 11bis(1) of this Convention, when such use is justified by the *informative purpose*.

(3) Nevertheless, the author shall enjoy the exclusive right of making a collection of his works mentioned in the preceding paragraph.

#### Article 3

(1) The protection of this Convention shall apply to:

- (a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;
- (b) authors who are not nationals, of one of the countries of the Union, for their works first published in one of those countries, or simultaneously in a country outside the Union and in a country of the Union.

(2) Authors who are not nationals of one of the countries of the Union but who have their habitual residence in one of them shall, for the purposes of this Convention, be assimilated to nationals of that country.

(3) The expression "published works" means works published with the consent of their authors, whatever may be the mode of publication, and whatever the form of the work, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work. The performance of a dramatic, dramatic-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(4) A work shall be considered as having been published simultaneously in several countries if it has been published in two or more countries within thirty days of its first publication.

#### Article 4

The protection of this Convention shall apply, even if the conditions of Article 3 are not fulfilled, to:

- (a) authors of cinematographic works the maker of which has his headquarters or habitual residence in one of the countries of the Union;
- (b) authors of works of architecture erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.

#### Article 5

(1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention.

(2) The enjoyment and the exercise of these rights shall not be subject to any formality: such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed.

(3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors.

(4) The country of origin shall be considered to be:

- (a) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which result from different terms of protection, the country whose legislation grants the shortest term of protection;
- (b) in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country;
- (c) in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that:
  - (i) when there are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country; and
  - (ii) when there are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

#### Article 6

(1) Where any country outside the Union fails to protect in an adequate manner the works of authors who are nationals of one of the countries of the Union, the latter country may

restrict the protection given to the works of authors who are, at the date of the first publication thereof, nationals of the country and are not habitually resident in one of the countries of the Union. If the country of first publication was itself of this Union, the other countries of the Union shall not be required to grant to works thus subjected to special treatment a wider protection than that granted to them in the country of first publication.

(2) No restrictions introduced by virtue of the preceding paragraph shall affect the rights which an author may have acquired in respect of a work published in a country of the Union before such restrictions were put into force.

(3) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the Director General of the World Intellectual Property Organization (hereinafter designated as "the Director General") by a written declaration specifying the countries in regard to which protection is restricted, and the restrictions to which rights of authors who are nationals of those countries are subjected. The Director General shall immediately communicate this declaration to all the countries of the Union.

#### Article 6a.

(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

(2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation, at the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph may provide that some of these rights may, after his death, cease to be maintained.

(3) The means of redress for safeguarding the rights granted by this Article shall be governed by the legislation of the country where protection is claimed.

#### Article 7.

(1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death.

(2) However, in the case of cinematographic works, the countries of the Union may provide that the term of protec-

tion shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.

(3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.

(4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied art in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.

(5) The term of protection subsequent to the death of the author and the terms provided by paragraph (2), (3) and (4) shall run from the date of death, or, if the work referred to in those paragraphs, but such terms shall always be deemed to begin on the first of January of the year following the death or such event.

(6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.

(7) Those countries of the Union bound by the Rome Act of this Convention which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraph shall have the right to maintain such terms when ratifying or acceding to the present Act.

(8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

#### Article 7a.

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

# Article 8

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

# Article 9

(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.

(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

# Article 10

(1) It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

(2) It shall be a matter for legislation in the countries of the Union, and for special agreements existing or to be concluded between them, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.

(3) Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source, and of the name of the author if it appears thereon.

# Article 10a

(1) It shall be a matter for legislation in the countries of the Union to permit the reproduction by the press, the broadcasting or the communication to the public by wire of articles published in newspapers or periodicals on current events of the political or religious topics, and of broadcasts of the same character, in cases in which the reproduction, broadcasting or such communication thereof is not prohibited by the law. Nevertheless, the source must always be clearly indicated; the legal consequences of a breach of this obligation

shall be determined by the legislation of the country where protection is claimed.

(2) It shall also be a matter for legislation in the countries of the Union to determine the conditions under which, for the purpose of enabling the general public to be kept abreast of current events by means of photography, cinematography, broadcasting or communication to the public by wire, literary or artistic works, even or heard in the course of the event may, to the extent justified by the informative purpose, be reproduced and made available to the public.

# Article 11

(1) Authors of dramatic, dramatic-musical and musical works shall enjoy the exclusive right of authorizing:

(i) the public performance of their works, including such public performance by any means or process;

(ii) any communication to the public of the performance of their works.

(2) Authors of dramatic or dramatic-musical works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

# Article 11a

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by sign, sound or image, the broadcast of the work.

(2) It shall be a matter for legislation in the countries of the Union to determine the conditions under which the rights mentioned in the preceding paragraph may be exercised, but these conditions shall apply only in the countries where they have been prescribed. They shall not in any circumstance be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) In the absence of any contrary stipulation, permission granted in accordance with paragraph (1) of this Article shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast. It shall, however, be a matter for legislation in the countries of the Union

to determine the regulations for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

#### Article 11w

- (1) Authors of literary works shall enjoy the exclusive right of authorizing:
- (i) the public recitation of their works, including such public recitation by any means or process;
  - (ii) any communication to the public of the recitation of their works.
- (2) Authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof.

#### Article 12

Authors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works.

#### Article 13

(1) Each country of the Union may impose for itself reservations and conditions on the exclusive right granted to the author of a musical work and to the author of any work, the recording of which together with the musical work has already been authorized by the latter, to authorize the sound recording of that musical work, together with such work, if any; but all such reservations and conditions shall apply only in the countries which have imposed them and shall not, in any circumstances, be prejudicial to the rights of those authors to obtain equitable remuneration which, in the absence of agreement, shall be fixed by competent authority.

(2) Recordings of musical works made in a country of the Union in accordance with Article 13(3) of the Conventions signed at Rome on June 2, 1928, and at Brussels on June 26, 1948, may be reproduced in that country without the permission of the author of the musical work until a date two years after that country becomes bound by this Act.

(3) Recordings made in accordance with paragraph (1) and (2) of this Article and imported without permission from the parties concerned into a country where they are treated as infringing recordings shall be liable to seizure.

#### Article 14

(1) Authors of literary or artistic works shall have the exclusive right of authorizing:

(i) the cinematographic adaptation and reproduction of these works, and the distribution of the works thus adapted or reproduced;

(ii) the public performance and communication to the public by wire of the works thus adapted or reproduced.

(2) The adaptation into any other artistic form of a cinematographic production derived from literary or artistic works shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the authors of the original works.

(3) The provisions of Article 13(1) shall not apply.

#### Article 14w

(1) Without prejudice to the copyright in any work which may have been adapted or reproduced, a cinematographic work shall be protected as an original work. The owner of copyright in a cinematographic work shall enjoy the same rights as the author of an original work, including the rights referred to in the preceding Article.

(2) (a) Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

(b) However, in the countries of the Union which, by legislation, include among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work, such authors, if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public or to the publishing or publishing of text, of the work.

(c) The question whether or not the form of the undertaking referred to above should, for the application of the preceding subparagraph (b), be in a written agreement or a written act of the same effect shall be a matter for the legislation of the country where the maker of the cinematographic work has his headquarters or habitual residence. However, it shall be a matter for the legislation of the country of the Union where protection is claimed to provide that the said undertaking shall be in a written agreement or a written act of the same effect. The countries whose legislation so provides shall notify the Director-General by means of a written declaration which will be immediately communicated by him to all the other countries of the Union.

(d) By "contrary or special stipulation" is meant any restrictive condition which is relevant to the aforesaid undertaking.

(3) Unless the national legislation provides to the contrary, the provisions of paragraph (2)(b) above shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work, or to the principal director thereof. However, those countries of the Union whose legislation does not contain any provision for the application of the said paragraph (2)(b) to such director shall notify the Director General by means of a written declaration, which will be immediately communicated by him to all the other countries of the Union.

#### Article 14<sup>ter</sup>

(1) The author, or after his death, the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

#### Article 15

(1) In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to initiate infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity.

(2) The person or body corporate whose name appears on a cinematographic work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the maker of the said work.

(3) In the case of anonymous and pseudonymous works, other than those referred to in paragraph (1) above, the publisher or the person appearing on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and by this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall come to apply when the author reveals his identity and establishes his claim to authorship of the work.

(4) *(a)* In the case of unpublished works, where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.

*(b)* Countries of the Union which make such designation under the terms of this provision shall notify the Director General by means of a written declaration giving full information concerning the authority thus designated. The Director General shall at once communicate this declaration to all other countries of the Union.

#### Article 16

(1) Infringing copies of a work shall be liable to seizure in any country of the Union where the work enjoys legal protection.

(2) The provisions of the preceding paragraph shall also apply to reproductions coming from a country where the work is not protected, or has ceased to be protected.

(3) The seizure shall take place in accordance with the legislation of each country.

#### Article 17

The provisions of this Convention cannot in any way affect the right of the Government of each country of the Union to permit, to control, or to prohibit, by legislation or regulation, the circulation, presentation, or exhibition of any work or production in regard to which the competent authority may find it necessary to exercise that right.

#### Article 18

(1) This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection.

(2) If, however, through the expiry of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew.

(3) The application of this principle shall be subject to any provisions contained in special conventions to that effect existing or to be concluded between countries of the Union. In the absence of such provisions, the respective countries shall determine, each in as far as it is concerned, the conditions of application of this principle.

(4) The preceding provision shall also apply in the case of new accessions to the Union and to cases in which protection is extended by the application of Article 7 or by the abandonment of reservation.

#### Article 19

The provisions of this Convention shall not preclude the making of a claim to the benefit of any grant-in-aid which may be granted by legislation in a country of the Union.

#### Article 20

The Government of the countries of the Union reserve the right to enter into special agreements among themselves, in so far as such agreements grant to authors more extensive rights than those granted by the Convention, or contain other provisions not contrary to this Convention. The provisions of existing agreements which satisfy these conditions shall remain applicable.

#### Article 21

(1) Special provisions regarding developing countries are included in the Appendix.

(2) Subject to the provisions of Article 28(1)(b), the Appendix forms an integral part of this Act.

#### Article 22

(1) (a) The Union shall have an Assembly consisting of those countries of the Union which are bound by Articles 22 to 26.

(b) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Convention;

(ii) give directions concerning the preparation for conferences of revision to the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention Establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), due account being taken of any comments made by those countries of the Union which are not bound by Articles 22 to 26;

(iii) review and approve the reports and activities of the Director General of the Organization concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(iv) elect the members of the Executive Committee of the Assembly;

(v) review and approve the reports and activities of the Executive Committee, and give instructions to such Committee;

(vi) determine the program and adopt the triennial budget of the Union, and approve its final account;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees of experts and working groups as may be necessary for the work of the Union;

(ix) determine which countries not members of the Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) adopt amendments to Articles 22 to 26;

(xi) take any other appropriate action designed to further the objectives of the Union;

(xii) exercise such other functions as are appropriate under this Convention;

(xiii) subject to its acceptance, exercise such rights as are given to it in the Convention establishing the Organization.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the following conditions are fulfilled: The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the



quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(g) Countries of the Union not members of the Assembly shall be admitted to its meetings as observers.

(4) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee or at the request of one-fourth of the countries members of the Assembly.

(5) The Assembly shall adopt its own rules of procedure.

#### Article 23

(1) The Assembly shall have an Executive Committee.

(2) (a) The Executive Committee shall consist of countries elected by the Assembly from among countries members of the Assembly. Furthermore, the country on whose territory the Organization has its headquarters shall, subject to the provisions of Article 25(7)(b), have an *ex officio* seat on the Committee.

(b) The Government of each country member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(3) The number of countries members of the Executive Committee shall correspond to one-fourth of the number of countries members of the Assembly. In establishing the number of members to be elected, account shall be taken of the geographical distribution to be effected, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution and to the need for countries party to the Special Agreements which might be established in relation with the Union to be among the countries constituting the Executive Committee.

(5) (a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected, but not more than two-thirds of them.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6) (a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly respecting the draft program and triennial budget of the Union prepared by the Director General;

(iii) approve, within the limits of the program and the triennial budget, the specific yearly budgets and programs prepared by the Director General;

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly, take all necessary measures to ensure the execution of the program of the Union by the Director General;

(vi) perform such other functions as are allocated to it under this Convention.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7) (a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative, or at the request of its Chairman or one-fourth of its members.

(8) (a) Each country member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one country only.

(9) Countries of the Union not members of the Executive Committee shall be admitted to its meetings as observers.

(10) The Executive Committee shall adopt its own rules of procedure.

#### Article 24

(1) (a) The administrative tasks with respect to the Union shall be performed by the International Bureau, which is a continuation of the Bureau of the Union united with the Bureau of the Union established by the International Convention for the Protection of Industrial Property.

(b) In particular, the International Bureau shall provide the secretariat of the various organs of the Union.

(c) The Director General of the Organization shall be the chief executive of the Union and shall represent the Union.

(2) The International Bureau shall assemble and publish information concerning the protection of copyright. Each country of the Union shall promptly communicate to the International Bureau all new laws and official texts concerning the protection of copyright.

(3) The International Bureau shall publish a monthly periodical.

(4) The International Bureau shall, on request, furnish information to any country of the Union on matters concerning the protection of copyright.

(5) The International Bureau shall conduct studies, and shall provide services, designed to facilitate the protection of copyright.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee, and any other committee of experts or working group. The Director General, or a staff member designated by him, shall be *ex officio* secretary of these bodies.

(7) (a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the conference of revision of the provisions of the Convention other than Articles 22 to 26.

(b) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at these conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

#### Article 25

(1) (a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Union, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Union shall be financed from the following sources:

- (i) contributions of the countries of the Union;
- (ii) fees and charges due for services performed by the International Bureau in relation to the Union;
- (iii) sale of, or royalties on, the publications of the International Bureau concerning the Union;
- (iv) gifts, bequests, and subscriptions;
- (v) rents, interests, and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution towards the budget, each country of the Union shall belong to a class, and shall pay its annual contribution on the basis of a number of units fixed as follows:

Class I	.....	25
Class II	.....	20
Class III	.....	15
Class IV	.....	10
Class V	.....	5
Class VI	.....	3
Class VII	.....	1

(b) Unless it has already done so, each country shall indicate, concurrently with depositing its instrument of ratification or accession, the class to which it wishes to belong. Any country may change class. If it chooses a lower class, the country must announce it to the Assembly at one of its ordinary sessions. Any such change shall take effect at the beginning of the calendar year following the session.

(c) The annual contribution of each country shall be an amount in the same proportion to the total sum to be contributed to the annual budget of the Union by all countries as the number of its units is to the total of the units of all contributing countries.

(d) Contributions shall become due on the first of January of each year.

(e) A country which is in arrears in the payment of its contributions shall have no vote in any of the organs of the Union of which it is a member if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Union may allow such a country to continue to exercise its vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(f) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, in accordance with the financial regulation.

(g) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Union shall be established, and shall be reported to the Assembly and the Executive Committee, by the Director General.

(h) (a) The Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Union. If the fund becomes insufficient, an increase shall be decided by the Assembly.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the increase decided.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization. As long as it remains under the obligation to grant advances, such country shall have an *ex officio* seat on the Executive Committee.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Union or by external auditors, as provided in the financial regulation. They shall be designated, with their agreement, by the Assembly.

#### Article 26

(1) *Proposals for the amendment of Articles 22, 23, 24, 25, and the present Article, may be initiated by any country member of the Assembly, by the Executive Committee, or by the Director General.* Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment of Article 22 and of the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notification of acceptance, offered in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Union shall bind only those countries which have notified their acceptance of such amendment.

#### Article 27

(1) This Convention shall be submitted to revision with a view to the introduction of amendments designed to improve the system of the Union.

(2) For this purpose, conferences shall be held successively in one of the countries of the Union among the delegates of the said countries.

(3) Subject to the provisions of Article 26, which apply to the amendment of Articles 22 to 26, any revision of this Act, including the Appendix, shall require the unanimity of the vote cast.

#### Article 28

(1) (a) Any country of the Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it. Instruments of ratification or accession shall be deposited with the Director General.

(b) Any country of the Union may declare, in its instrument of ratification or accession that its ratification or accession shall not apply to Articles 1 to 21 and the Appendix, provided that, if such country has previously made a declaration under Article VI(1) of the Appendix, then it may declare in the said instrument only that its ratification or accession shall not apply to Articles 1 to 20.

(c) Any country of the Union which, in accordance with subparagraph (b), has excluded provisions therein referred to from the effects of its ratification or accession may at any later time declare that it extends the effects of its ratification or accession to those provisions. Such declaration shall be deposited with the Director General.

(2)(c) Articles 1 to 21 and the Appendix shall enter into force three months after both of the following two conditions are fulfilled:

(i) at least five countries of the Union have ratified or acceded to this Act without making a declaration under paragraph 1(b).

(ii) France, Spain, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, have become bound by the Universal Copyright Convention as revised at Paris on July 24, 1917.

(b) The entry into force referred to in subparagraph (a) shall apply to those countries of the Union which, at least three months before the said entry into force, have deposited instruments of ratification or accession not containing a declaration under paragraph 1(b).

(c) With respect to any country of the Union not covered by subparagraph (b) and which ratifies or accedes to this Act without making a declaration under paragraph 1(b), Articles 1 to 21 and the Appendix shall enter into force three months after the date on which the Director General has notified the deposit of the relevant instrument of ratification or accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, Article 1 to 21 and the Appendix shall enter into force with respect to that country on the date thus indicated.

(d) The provisions of subparagraph (a) to (c) do not affect the application of Article VI of the Appendix.

(3) With respect to any country of the Union which ratifies or accedes to this Act with or without a declaration made under paragraph 1(b), Article 22 to 38 shall enter into force three months after the date on which the Director General has notified the deposit of the relevant instrument of ratification or accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, Article 22 to 38 shall enter into force with respect to that country on the date thus indicated.

#### Article 29

(1) Any country outside the Union may accede to this Act and thereby become party to this Convention and a member of the Union. Instruments of accession shall be deposited with the Director General.

(2)(a) Subject to subparagraph (b), this Convention shall enter into force with respect to any country outside the Union three months after the date on which the Director General has notified the deposit of its instrument of accession, unless a subsequent date has been indicated in the instrument deposited. In the latter case, this Convention shall enter into force with respect to that country on the date thus indicated.

(b) If the entry into force according to subparagraph (a) precedes the entry into force of Articles 1 to 21 and the Appendix according to Article 38(2)(c), the said country shall, in the meantime, be bound in respect of by Articles 1 to 21 and the Appendix, by Article 1 to 20 of the Brussels Act of this Convention.

#### Article 29<sup>bis</sup>

Ratification of or accession to this Act by any country not bound by Article 22 to 38 of the Stockholm Act of this Convention shall, for the sole purposes of Article 14(2) of this Convention establishing the Organization, amount to ratification of or accession to the said Stockholm Act with the limitation set forth in Article 28(1)(b)(i) thereof.

#### Article 30

(1) Subject to the exceptions permitted by paragraph (2) of this Article, by Article 28(1)(b), by Article 38(2), and by the Appendix, ratification or accession shall automatically entail acceptance of all the provisions and admission to all the advantages of this Convention.

(2)(a) Any country of the Union ratifying or acceding to this Act may, subject to Article V(2) of the Appendix, retain the benefit of the provisions it has previously formulated on condition that it makes a declaration to that effect at the time of the deposit of its instrument of ratification or accession.

(b) Any country outside the Union may declare, in acceding to this Convention and subject to Article V(2) of the Appendix, that it intends to substitute, temporarily at least, for Article 8 of this Act concerning the right of translation, the provisions of Article 5 of the Union Convention of 1886, as completed at Paris in 1896, on the clear understanding that the said provisions are applicable only to translations into a language in general use in the said country. Subject to Article 16(b) of the Appendix, any country has the right to apply,

in relation to the right of translation of works whose country of origin is a country availing itself of such a reservation, a protection which is equivalent to the protection granted by the latter country.

(c) Any country may withdraw such reservation at any time by notification addressed to the Director General.

#### Article 31

(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification at any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3) (a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in which it was included, and any notification given under that paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General.

(4) This Article shall in no way be understood as implying the recognition or tacit acceptance by a country of the Union of the factual situation concerning a territory to which this Convention is made applicable by another country of the Union by virtue of a declaration under paragraph (1).

#### Article 32

(1) This Act shall, as regards relations between the countries of the Union, and to the extent that it applies, replace the Berne Convention of September 9, 1886, and the subsequent Acts of revision. The Acts previously in force shall continue to be applicable, in their entirety or to the extent that this Act does not replace them by virtue of the preceding sentence, in relations with countries of the Union which do not ratify or accede to this Act.

(2) Countries outside the Union which become party to this Act shall, subject to paragraph (3), apply it with respect to any country of the Union not bound by this Act or which, although bound by this Act, has made a declaration pursuant to Article 28(1)(b). Such countries recognize that the said country of the Union, in its relations with them:

(i) may apply the provisions of the most recent Act by which it is bound, and

(ii) subject to Article 11(6) of the Appendix, has the right to adapt the protection to the level provided for by this Act.

(3) Any country which has availed itself of any of the facilities provided for in the Appendix may apply the provisions of the Appendix relating to the faculty or facilities of which it has availed itself in its relations with any other country of the Union which is not bound by this Act, provided that the latter country has accepted the application of the said provisions.

#### Article 33

(1) Any dispute between two or more countries of the Union concerning the interpretation or application of this Convention, not settled by negotiation, may, by any one of the countries concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the countries concerned agree on some other method of settlement. The country bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other countries of the Union.

(2) Each country may, at the time it signs this Act or deposits its instrument of ratification or accession, declare that it does not consider itself bound by the provisions of paragraph (1). With regard to any dispute between such country and any other country of the Union, the provision of paragraph (1) shall not apply.

(3) Any country having made a declaration in accordance with the provision of paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

#### Article 34

(1) Subject to Article 29<sup>u</sup>, no country may ratify or accede to earlier Acts of this Convention once Article 1 to 21 and the Appendix have entered into force.

(2) Once Articles 1 to 21 and the Appendix have entered into force, no country may make a declaration under Article 5 of the Protocol Regarding Developing Countries attached to the Stockholm Act.

#### Article 35

(1) This Convention shall remain in force without limitation as to time.

(2) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of all earlier Acts and shall

affect only the country making it, the Convention remaining in full force and effect as regards the other countries of the Union.

(3) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(4) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Union.

#### Article 36

(1) Any country party to this Convention undertakes to adopt, in accordance with its constitution, the measures necessary to ensure the application of this Convention.

(2) It is understood that, at the time a country becomes bound by this Convention, it will be in a position under its domestic law to give effect to the provisions of this Convention.

#### Article 37

(1) (a) This Act shall be signed in a single copy in the French and English languages and, subject to paragraph (2), shall be deposited with the Director General.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian, Portuguese and Spanish languages, and such other languages as the Assembly may designate.

(c) In case of difference of opinion on the interpretation of the various texts the French text shall prevail.

(2) This Act shall remain open for signature until January 31, 1972. Until that date, the copy referred to in paragraph (1)(a) shall be deposited with the Government of the French Republic.

(3) The Director General shall certify and transmit two copies of the signed text of this Act to the Governments of all countries of the Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Union of signatures, deposits of instruments of ratification or accession and any declaration included in such instruments or made pursuant to Article 28(1)(c), 30(2)(a) and (b), and 33(2), entry into force of the Convention and of any denunciation or withdrawal of ratification or accession pursuant to Articles 30(2)(c), 31(1) and (2), 33(3), and 36(1), as well as the Appendix.

#### Article 38

(1) Countries of the Union which have not ratified or acceded to this Act and which are not bound by Articles 22 to 26 of the Stockholm Act of this Convention may, until April 26, 1975, exercise, if they so desire, the rights provided under the said Articles as if they were bound by them. Any country desiring to exercise such rights shall give written notification to this effect to the Director General; this notification shall be effective on the date of its receipt. Such countries shall be deemed to be members of the Assembly until the said date.

(2) As long as all the countries of the Union have not become Members of the Organization, the International Bureau of the Organization shall also function as the Bureau of the Union, and the Director General as the Director of the said Bureau.

(3) Once all the countries of the Union have become Members of the Organization, the rights, obligations, and property of the Bureau of the Union shall devolve on the International Bureau of the Organization.

#### APPENDIX

##### Article I

(1) Any country regarded as a developing country in conformity with the statistical practice of the General Assembly of the United Nations which ratifies or accedes to this Act, or to which this Appendix forms part of an instrument, having regard to its economic situation and its need of cultural interests, does not consider itself immediately in a position to make provision for the protection of all the rights as provided for in this Act, may by a notification deposited with the Director General at the time of depositing its instrument of ratification or accession or subject to Article VI(c), at any time thereafter, declare that it will avail itself of the faculty provided for in Article II, or of the faculty provided for in Article III, or of both of those faculties. It may instead of availing itself of the faculty provided for in Article II, make a declaration according to Article VI(b).

(2) (a) Any declaration under paragraph (1) notified before the expiration of the period of ten years from the entry into force of Articles 22 to 26 and this Appendix, according to Article 28(2), shall be effective until the expiration of the said period. Any such declaration may be renewed in whole or in part for periods of five years each by a notification deposited with the Director General before an fifteen months and not less than three months before the expiration of the ten-year period then running.

(b) Any declaration under paragraph (1) notified after the expiration of the period of ten years from the entry into force of Articles 1 to 21 and this Appendix according to Article 28(2) shall be effective until the expiration of the ten-year period then running. Any such declaration may be renewed as provided for in the second sentence of subparagraph (a).

(3) Any country of the Union which has ceased to be regarded as a developing country as referred to in paragraph (1) shall no longer be entitled to renew its declaration as provided in paragraph (2), and, whether or not it formally withdraws its declaration, such country shall be precluded from availing itself of the facilities referred to in paragraph (1) from the expiration of the ten-year period then running or from the expiration of a period of three years after it has ceased to be regarded as a developing country, whichever period expires later.

(4) Where, at the time when the declaration made under paragraph (1) or (2) ceases to be effective, there are copies in stock, which were made under a license granted by virtue of this Appendix, such copies may continue to be distributed until their stock is exhausted.

(5) Any country which is bound by the provisions of this Act and which has deposited a declaration or a notification in accordance with Article 31(1) with respect to the application of this Act to a particular territory, the situation of which can be regarded as analogous to that of the countries referred to in paragraph (1), may, in respect of such territory, make the declaration referred to in paragraph (1) and the notification of renewal referred to in paragraph (2). As long as such declaration or notification remains in effect, the provisions of this Appendix shall be applicable to the territory in respect of which it was made.

(6) (a) The fact that a country avails itself of any of the facilities referred to in paragraph (1) does not permit another country to give less protection to works of which the country of origin is the former country than it is obliged to grant under Articles 1 to 20.

(b) The right to apply reciprocal treatment provided for in Article 30(2)(b), second sentence, shall not, until the date on which the period applicable under Article 1(3) expires, be exercised in respect of works the country of origin of which is a country which has made a declaration according to Article VI(1)(a).

## Article II

(1) Any country which has declared that it will avail itself of the facility provided for in this Article shall be entitled so far as works published in printed or analogous

forms of reproduction are concerned to substitute for the exclusive right of translation provided for in Article 8 a system of non-exclusive and nontransferable licenses, granted by the competent authority under the following conditions and subject to Article IV:

(2) (a) Subject to paragraph (3), if, after the expiration of a period of three years, or of any longer period determined by the national legislation of the said country, commencing on the date of the first publication of the work, a translation of such work has not been published in a language in general use in that country by the owner of the right of translation, or with his authorization, any national of such country may obtain a license to make a translation of the work in the said language and publish the translation in printed or analogous forms of reproduction.

(b) A license under the conditions provided for in this Article may also be granted if all the editions of the translation published in the language concerned are out of print.

(3) (a) In the case of translations into a language which is not in general use in one or more developed countries, which are members of the Union, a period of one year shall be substituted for the period of three years referred to in paragraph (2)(a).

(b) Any country referred to in paragraph (1) may, with the unanimous agreement of the developed countries which are members of the Union and in which the same language is in general use, substitute, in the case of translations into that language, for the period of three years referred to in paragraph (2)(a) a shorter period as determined by such agreement but not less than one year. However, the provisions of the foregoing sentence shall not apply where the language in question is English, French or Spanish. The Director-General shall be notified of any such agreement by the Governments which have concluded it.

(4) (a) No license obtainable after three years shall be granted under this Article until a further period of six months has elapsed, and no license obtainable after one year shall be granted under this Article until a further period of nine months has elapsed.

(i) From the date on which the applicant complies with the requirements mentioned in Article IV(1), or

(ii) where the identity or the address of the owner of the right of translation is unknown, from the date on which the applicant sends, as provided for in Article IV(2), copies of his application submitted to the authority competent to grant the license.

(b) If, during the said period of six or nine months, a translation in the language in respect of which the application

was made is published by the owner of the right of translation or with his authorization, no license under this Article shall be granted.

(5) Any license under this Article shall be granted only for the purpose of teaching, scholarship or research.

(6) If a translation of a work is published by the owner of the right of translation or with his authorization at a price reasonably related to that normally charged in the country for comparable works, any license granted under this Article shall terminate if such translation is in the same language and with substantially the same content as the translation published under the license. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.

(7) For works which are composed mainly of illustrations, a license to make and publish a translation of the text and to reproduce and publish the illustrations may be granted only if the conditions of Article III are also fulfilled.

(8) No license shall be granted under this Article when the author has withdrawn from circulation all copies of his work.

(9) (a) A license to make a translation of a work which has been published in printed or analogous forms of reproduction may also be granted to any broadcasting organization having its headquarters in a country referred to in paragraph (1), upon an application made to the competent authority of that country by the said organization, provided that all of the following conditions are met:

(i) the translation is made from a copy made and acquired in accordance with the laws of the said country;

(ii) the translation is only for use in broadcasts intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession;

(iii) the translation is used exclusively for the purposes referred to in condition (ii) through broadcasts made lawfully and intended for recipients on the territory of the said country, including broadcasts made through the medium of sound or visual recordings lawfully and exclusively made for the purpose of such broadcasts;

(iv) all uses made of the translation are without any commercial purpose.

(b) Sound or visual recordings of a translation which was made by a broadcasting organization under a license granted by virtue of this paragraph may, for the purposes and subject to the conditions referred to in subparagraph (a) and with the agreement of that organization, also be used

by any other broadcasting organization having its headquarters in the country whose competent authority granted the license in question.

(c) Provided that all of the criteria and conditions set out in subparagraph (a) are met, a license may also be granted to a broadcasting organization to translate any text incorporated in an audio-visual fixation where such fixation was itself prepared and published for the sole purpose of being used in connection with systematic instructional activities.

(d) Subject to subparagraphs (a) to (c), the provisions of the preceding paragraphs shall apply to the grant and exercise of any license granted under this paragraph.

### Article III

(1) Any country which has declared that it will avail itself of the faculty provided for in this Article shall be entitled to substitute for the exclusive right of reproduction provided for in Article 9 a system of non-exclusive and non-transferable licenses, granted by the competent authority under the following conditions and subject to Article IV.

(2) (a) If, in relation to a work to which this Article applies by virtue of paragraph (7), after the expiration of the relevant period specified in paragraph (3), commencing on the date of first publication of a particular edition of the work, or

(ii) any longer period determined by national legislation of the country referred to in paragraph (1), commencing on the same date,

copies of such edition have not been distributed in that country to the general public or in connection with systematic instructional activities by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the country for comparable works, any national of such country may obtain a license to reproduce and publish such edition at that or a lower price for use in connection with systematic instructional activities.

(b) A license to reproduce and publish an edition which has been distributed as described in subparagraph (a) may also be granted under the conditions provided for in this Article if, after the expiration of the applicable period, no authorized copies of that edition have been on sale for a period of six months in the country concerned to the general public or in connection with systematic instructional activities at a price reasonably related to that normally charged in the country for comparable works.

(3) The period referred to in paragraph (2)(a)(i) shall be five years, except that



- (i) for works of the natural and physical sciences, including mathematics, and of technology, the period shall be three years;
- (ii) for works of fiction, poetry, drama and music, and for art books, the period shall be seven years.
- (4) (a) No license obtainable after three years shall be granted under this Article until a period of six months has elapsed.
- (i) from the date on which the applicant complies with the requirements mentioned in Article IV(1), or
- (ii) where the identity or the address of the owner of the right of reproduction is unknown, from the date on which the applicant sends, as provided for in Article IV(2), copies of his application submitted to the authority competent to grant the license.
- (b) Where licenses are obtainable after other periods and Article IV(2) is applicable, no license shall be granted until a period of three months has elapsed from the date of the dispatch of the copies of the application.
- (c) If, during the period of six or three months referred to in subparagraphs (a) and (b), a distribution as described in paragraph (2)(a) has taken place, no license shall be granted under this Article.
- (d) No license shall be granted if the author has withdrawn from circulation all copies of the edition for the reproduction and publication of which the license has been applied for.
- (5) A license to reproduce and publish a translation of a work shall not be granted under this Article in the following cases:
  - (i) where the translation was not published by the owner of the right of translation or with his authorization, or
  - (ii) where the translation is not in a language in general use in the country in which the license is applied for.
- (6) If copies of an edition of a work are distributed in the country referred to in paragraph (1) to the general public or in connection with systematic instructional activities, by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the country for comparable works, any license granted under this Article shall terminate if such edition is in the same language and with substantially the same content as the edition which was published under the said license. Any copies already made before the license terminates may continue to be distributed until their stock is exhausted.
- (7) (a) Subject to subparagraph (b), the works to which this Article applies shall be limited to works published in printed or analogous forms of reproduction.

(b) This Article shall also apply to the reproduction in audiovisual form of literally made audiovisual fixations including any protected works incorporated therein and to the translation of any incorporated text into a language in general use in the country in which the license is applied for, always provided that the audiovisual fixations in question were prepared and published for the sole purpose of being used in connection with systematic instructional activities.

#### Article IV

(1) A license under Article II or Article III may be granted only if the applicant, in accordance with the procedure of the country concerned, establishes either that he has requested, and has been denied, authorization by the owner of the right to make and publish the translation or to reproduce and publish the edition, as the case may be, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as making the request, the applicant shall inform any national or international information center referred to in paragraph (2).

(2) If the owner of the right cannot be found, the applicant for a license shall send, by registered airmail, copies of his application, submitted to the authority competent to grant the license, to the publisher whose name appears on the work and to any national or international information center which may have been designated in a special declaration which effect deposited with the General Directorate of the Government of the country which the publisher is believed to have his principal place of business.

(3) The name of the author shall be indicated on all copies of the translation or reproduction published under a license granted under Article II or Article III. The title of the work shall appear on all such copies. In the case of a translation, the original title of the work shall appear in any case on all the said copies.

(4) (a) No license granted under Article II or Article III shall extend to the export of copies, and any such license shall be valid only for publication of the translation or of the reproduction, as the case may be, in the territory of the country in which it has been applied for.

(b) For the purposes of subparagraph (a), the notion of export shall include the sending of copies from any territory to the country which, in respect of that territory, has made a declaration under Article I(5).

(c) Where a governmental or other public entity of a country which has granted a license to make a translation under Article II into a language other than English, French or Spanish sends copies of a translation published under such

license to another country, such sending of copies shall not, for the purposes of subparagraph (a), be considered to constitute export if all of the following conditions are met:

- (i) the recipients are individuals who are nationals of the country whose competent authority has granted the license, or organizations grouping such individuals;
  - (ii) the copies are to be used only for the purpose of teaching, scholarship or research;
  - (iii) the sending of the copies and their subsequent distribution to recipients is without any commercial purpose; and
  - (iv) the country to which the copies have been sent has agreed with the country whose competent authority has granted the license to allow the receipt or distribution of both and the Director General has been notified of the agreement by the Government of the country in which the license has been granted.
- (5) All copies published under a license granted by virtue of Article II or Article III shall bear a notice in the appropriate language stating that the copies are available for distribution only in the country or territory to which the said license applies.

(6) (a) Due provision shall be made at the national level to ensure

(i) that the licensee provides, in favour of the owner of the right of translation or of reproduction, as the case may be, for just compensation that is consistent with standards of royalties normally operating on licenses freely negotiated between persons in the two countries concerned; and

(ii) payment and transmittal of the compensation; should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(b) Due provision shall be made by national legislation to ensure a correct translation of the work, or an accurate reproduction of the particular edition, as the case may be.

#### Article V

(1) (a) Any country entitled to make a declaration that it will avail itself of the facility provided for in Article III may, instead, at the time of ratifying or acceding to this Act:

(i) if it is a country to which Article 30(2)(a) applies, make a declaration under that provision as far as the right of translation is concerned;

(ii) if it is a country to which Article 30(2)(a) does not apply, and even if it is not a country outside the Union, make a declaration as provided for in Article 30(2)(b), first sentence.

(b) In the case of a country which ceases to be regarded as a developing country as referred to in Article 1(1), a declaration made according to this paragraph shall be effective until the date on which the period applicable under Article 1(3) expires.

(c) Any country which has made a declaration according to this paragraph may not subsequently avail itself of the facility provided for in Article II even if it withdraws the said declaration.

(2) Subject to paragraph (3), any country which has availed itself of the facility provided for in Article II may not subsequently make a declaration according to paragraph (1).

(3) Any country which has ceased to be regarded as a developing country as referred to in Article 1(1) may, not later than two years after the expiration of the period applicable under Article 1(3), make a declaration to the effect provided for in Article 30(2)(b), first sentence, substantiating the fact that it is not a country outside the Union. Such declaration shall take effect at the date on which the period applicable under Article 1(3) expires.

#### Article VI

(1) Any country of the Union may declare, as from the date of this Act, and at any time before becoming bound by Articles 1 to 21 and this Appendix:

(i) if it is a country which, were it bound by Articles 1 to 21 and this Appendix, would be entitled to avail itself of the facilities referred to in Article 1(1), that it will apply the provisions of Article II or of Article III or of both to works whose country of origin is a country which, pursuant to (ii) below, admits the application of those Articles to such works, or which is bound by Articles 1 to 21 and this Appendix; such declaration may, instead of referring to Article II, refer to Article V; (ii) that it admits the application of this Appendix to works of which it is the country of origin by countries which have made a declaration under (i) above or a notification under Article 1.

(2) Any declaration made under paragraph (1) shall be in writing and shall be deposited with the Director General. The declaration shall become effective from the date of its deposit.

IN WITNESS WHEREOF, the undersigned, being duly  
authorized thereto, have signed this Act.  
DONE at Paris on July 24, 1971.

(参考)

この条約は、一八八三年ベルヌで作成以来七回にわたり補足、改正されて今日に至っており、その間著作権保護の拡充が図られ、また、著作物の複製、利用形態の多様化に対応するための諸措置がとられるなどの改善が加えられて来たが、今回更に著作者の権利の保護を一層充実することを目的として改正されたものである。