

BUREAUX INTERNATIONAUX
RÉUNIS POUR LA PROTECTION
DE LA PROPRIÉTÉ INTELLECTUELLE
GENÈVE, SUISSE

BIRPI

UNITED INTERNATIONAL
BUREAUX FOR THE PROTECTION
OF INTELLECTUAL PROPERTY
GENEVA, SWITZERLAND

**COMMITTEE OF EXPERTS ON THE ADMINISTRATIVE STRUCTURE
OF INTERNATIONAL COOPERATION
IN THE FIELD OF INTELLECTUAL PROPERTY**

**COMITÉ D'EXPERTS CONCERNANT LA STRUCTURE ADMINISTRATIVE
DE LA COOPÉRATION INTERNATIONALE DANS LE DOMAINE DE LA
PROPRIÉTÉ INTELLECTUELLE**

Geneva, March 22 - April 2, 1965

Geneva, 22 mars - 2 avril 1965

DECLARATIONS OF THE OBSERVERS
OF THE UNITED NATIONS AND UNESCO
MADE ON MARCH 22, 1965

I

Declaration of the Observer of the
United Nations

1. The United Nations Secretariat has studied with great interest the Draft Convention for a World Intellectual Property Organization (AA/II/3) and its Commentary (AA/II/2) prepared by the United International Bureaux for the Protection of Intellectual Property. We appreciate the opportunity to participate in the meetings of the Committee on this important question.

2. At the outset, it should be stressed that insofar as the draft convention serves to rearrange the structure of the administration of the existing conventions in the field, especially the Paris and Berne Conventions, it is, of course, a matter entirely up to the governments which have acceded to these conventions, and the United Nations has no comment to offer. It should only be noted that the relationship between the United Nations and the Bureaux set up under these conventions and currently organized in BIRPI, was recently discussed in the Economic and Social Council of the United Nations

and defined, in accordance with that Council's Resolution 1013 (XXXVII), by an exchange of letters between the Under-Secretary for Economic and Social Affairs and the Director of BIRPI of September-October 1964. In view of our experience to date, there would not seem to be any grounds for contemplating a change in these arrangements, regardless of the structure which may be adopted for the administration of these conventions.

3. In examining the draft convention for WIPO it would appear that something more than administrative reorganization may be contemplated. This follows, first of all, from the fact that membership in the new organization is to be open to all governments, including those which do not accede to the Berne and Paris Conventions. It is further noted, more specifically, that draft Article 17(3) contemplates the acquisition by the WIPO of broader functions than those now performed by BIRPI, including those it may "take over from any other international organization or agency". Finally, draft Article 5(2)(X) provides the basis for the possible acquisition by WIPO of the status of a Specialized Agency of the United Nations (see also Comment 19 on draft Article 3). Indeed the administrative structure contemplated for WIPO rather closely follows that commonly found in such Specialized Agencies.

4. In considering these provisions, the Committee may wish to note that the subject area in which WIPO would operate is already in large measure within the functions of existing United Nations organizations, notably the United Nations itself and UNESCO. It is true that while WIPO would be operating in the same area as these organizations, it would be devoted, as stated in draft Article 2(1), specifically to the protection of intellectual and industrial property rights. This emphasis would distinguish WIPO from the United Nations family of agencies which, each in its own field, concentrate on the general promotion of social and economic development.

5. I should like to stress again in concluding that we have no position as to the administrative structure of the proposed organization, but have felt it necessary to explain the implications which might arise, were such an administrative reorganization to be the basis for an extension of the organization's functions into areas which are currently the concern of the United Nations and its Specialized Agencies.

II

Declaration of the Observer of Unesco

UNESCO is happy to participate in this meeting, the importance of which it fully appreciates.

Since its founding, Unesco has always had the most cordial relations with the United International Bureaux for the Protection of Intellectual Property. These relations became even closer when the United Bureaux and Unesco proceeded, in 1950, to an exchange of letters which expressly envisaged that regular consultations would take place between the two organisations, in a spirit of full collaboration, on all questions of common interest relating to copyright.

I should like to thank you for permitting me to read, in the name of the Director-General of Unesco, a declaration relative to the role of Unesco in the field of intellectual property.

From the beginning of the work of the Preparatory Commission which met in London in November 1945, one of the fundamental tasks of the new specialised Agency of the United Nations for Education, Science and Culture emerged as being the promotion of international cooperation in every field of intellectual activity. This task was assigned to it by the States which founded Unesco: the Constitution of the Organisation envisages specifically that Unesco shall encourage intellectual cooperation between nations by developing their mutual knowledge and understanding and by recommending such international agreements as it judges useful to facilitate the free flow of ideas by word and image.

It is worth mentioning here that the pre-war International Institute of Intellectual Cooperation undertook work worthy of recall in favour of the protection of "intellectual" rights in the fields of literary, artistic and scientific creation. Unesco, in its capacity as the moral inheritor of that Institute, must assure the continuation of that effort.

The General Conference of Unesco has repeatedly affirmed the interest which it attaches to copyright questions by assigning to the Secretariat specific tasks and programmes in this field. At its second session, held in Mexico in 1947, the General Conference affirmed that Unesco

should, "with all possible speed and with due regard to existing agreements, consider the problem of improving copyright on a world-wide basis". This resolution, confirmed at the two following sessions of the General Conference, led the Secretariat to elaborate a draft of a universal convention capable of guaranteeing general respect of the rights of authors and artists and acceptable to all countries. The Universal Copyright Convention was signed on 6 September 1952 by the plenipotentiaries of 36 States, on the occasion of the Intergovernmental Copyright Conference held in Geneva. It entered into force on September 16, 1955. As of March 15, 1965, 49 States had ratified or adhered to it. The adherence of these countries, which belong to Western Europe as well as North America, Central America, South America, Africa and Asia, demonstrates the universalisation of copyright. The Staff of Unesco provides the secretariat of the Intergovernmental Copyright Committee created under Article XI of the Universal Copyright Convention.

Unesco is also occupied with the protection of scientists against fraudulent appropriation of their discoveries as such. At its fifth session, the General Conference invited the Director-General "to study and propose appropriate measures to ensure for scholars favourable conditions for the unhampered practice of their activity." Unesco intends to undertake studies in order to formulate proposals in this field.

In order to carry out resolutions adopted by the General Conference during its ninth, tenth and eleventh sessions, which invited Unesco to participate in the preparation of an international instrument to safeguard the legitimate rights of performers, producers of phonograms and broadcasting organisations, the Director-General convoked, jointly with the Director-General of the International Labour Organisation and the Director of the United International Bureaux for the Protection of Intellectual Property, a Diplomatic Conference which was held in Rome in 1961 and which adopted an International Convention on this subject. The Convention, which entered into force on May 18, 1964, now has the adherence of 8 Member States. The Secretariat of the Intergovernmental Committee created by this Convention (Art. 32) will be jointly assured by the International Labour Office, Unesco and the United International Bureaux for the Protection of Intellectual Property.

The Organisation conceives its rightful task in the field of intellectual rights in terms of two imperatives:

1. Its action must be fully universal. The Organisation's vocation is truly world-wide, since the very terms of its constitution assign to it as a fundamental task the achievement

of universal respect for human rights, and since its Member States, now 119 in number, belong to every region of the world.

2. It must enforce human rights, as defined in the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations.

The United Nations draft Covenant on economic, social and cultural rights has as its essential purpose the legal formulation of the principles inscribed in the Universal Declaration with a view to regulating their application. This draft Covenant envisages in particular that the realisation of cultural rights, formulated by Article 27 of the Universal Declaration of Human Rights - in the elaboration of which Unesco took an active part - will be assured by conventions, recommendations, technical assistance projects and regional technical meetings. It is useful to underline at this point that, in its Article 25, the draft Covenant envisages that "Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialised agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialised agencies in regard to the matters dealt with in this Covenant."

Thus it falls to Unesco to assure, in conformity with its own aims and the mission assigned to it, the development of cultural rights. It is in this perspective that Unesco has undertaken studies concerning the problems raised by copyright. It assures the publication of information for the use of Member States on national and international treaties, laws and orders. It has organised seminars to aid Member States in the development of their national legislation in this field. Finally, it continues to provide assistance of an intellectual and practical character to Member States which express the desire for such assistance.

During the last fifteen years, the United International Bureaux for the Protection of Intellectual Property have provided most valuable collaboration to Unesco in this field. The Director-General, who is fully aware of the importance of this collaboration, which he wishes to continue in the spirit of existing arrangements, believed that he should take this opportunity to recall these points, within the framework of the responsibilities which Unesco is called upon to assume.