The Berne Convention

Signed at Berne, Sept. 9, 1886; Additional Act and Declaration signed at Paris, May 4, 1896; revised at Berlin, Nov. 13, 1908; additional protocol signed at Berne, March 20, 1914; revised at Rome, June 2, 1928; revised at Brussels, June 26, 1948.

Australia, Austria, Belgium, Brazil, Canada, Czechoslovakia, Denmark, Finland, France, Greece, Hungary, Iceland, India, Ireland, Italy, Lebanon, Liechtenstein, Luxembourg, Monaco, Marocco, New Zealand, the Netherlands, Norway, Pakistan, Poland, Portugal, Spain, Sweden, Switzerland, Syria, Tunis, the Union of South Africa, the United Kingdom of Great Britain and Northern Ireland, Vatican City and Yugolsavia,n*

Being equally animated by the desire to protect in as effective and uniform a manner as possible the rights of authors over their literary and artistic works,

Have resoved to revise and to complete the Act signed at Berne on the 9th Septenber 1886, completed at Paris on the 4th May 1896, revised at Berlin on the 13th November 1908, completed at Berne on the 20th March 1914 and revised in Rome on the 2nd June 1928.

Consequently, the undersigned Plenipoteniaries, having 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 over their literary and artistic works.

Article 2

(1) The term "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, the acting form of which is fixed in writing or otherwise; musical compositions with or without words; cinematographic works and works produced by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works and works produced by a process analogous to photography; works of applied art; illustrations, geographical charts, plans, sketches and plastic works relative to geography, topography, architecture or science.

(2) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the rights of the author of the original work. It shall, however, be a matter for legislation in Countries of the Union to determine the protection to be granted to translations of official texts of a legislative, administrative and legal nature.

(3) Collections of literary or artistic works such as encyclopedias 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 rights of the authors in respect of each of the works forming part of such collections.

(4) 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 legal representatives and assignees.

(5) 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 other Countries of the Union only to such protection as shall be accorded to designs and models in such Countries.

Article 2

(1) It shall be a matter for legislation in countries of the Union to exclude wholly or in part from the protection afforded 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 countries of the Union to determine the conditions under which lectures, addresses, sermons and other works of the same nature may be reproduced by the press.

(3) Nevertheless, the author alone shall have the right of making a collection of his works mentioned in the above paragraphs.

Article 3 (omitted)

Article 4

(1) Authors who are nationals of any of the countries of the Union shall enjoy in countries other than the country of origin of the work, for their works, whether unpublished or first published in a country of the Union, 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) The country of origin shall be considered to be, in the case of published works, the country of first publication, even in the case of works published simultaneously in several countries of the Union which grant the same term of protection; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country of which the legislation grants the shortest term of protection. In the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country shall be considered exclusively as the country of origin.

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

(4) For the purposes of Articles 4, 5 and 6, "published works" shall be understood to be works copies of which have been issued and made available in sufficient quantities to the public, whatever may be the means of manufacture of the copies. The presentation of a dramatic, dramatico-musical or cinematographic work, the performance of a musical work, the public recitation of a literary work, the transmission or the radio-diffusion of literary or artistic works, the exhibition of a work of art and the construction of a work of architecture shall not constitute publication.

(5) The country of origin shall be considered to be, in the case of unpublished works, the country to which the author belongs. However, in the case of works of architecture or of graphic and plastic works forming part of a building, the country of the Union where these works have been built or incorporated in a building shall be considered as the country of origin.

Article 5

Authors who are nationals of one of the countries of the Union, and who first publish their works in another country of the Union, shall have in the latter country the same rights as native authors.

Article 6

(1) Authors who are not nationals of one of the countries of the Union, and who first publish their works in one of those countries, shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present Convention.

(2) Nevertheless, 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 other country and are not effectively domiciled in one of the countries of the Union. If the country of first publication avails itself of this right, 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.

(3) 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.

(4) The countries of the Union which restrict the grant of copyright in accordance with this Article shall give notice thereof to the Government of the Swiss Confederation 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 Government of the Swiss Confederation shall immediately communicate this declaration to all the countries of the Union.

Article 6

(1) Independently of the author's copyright, and even after the transfer of the said copyright, the author shall have the right, during his lifetime, to claim authorship of the work and to object to any distortion, mutilation or other alteration: thereof, or any other action in relation to the said work, which would be prejudicial to his honour or reputation.

(2) Insofar as the legislation of the countries of the Union permits, 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 copyright, and shall be exercisable by the persons or institutions authorized by the said legislation.

The determination of the conditions under which the rights mentioned in this paragraph shall be exercised shall be governed by the legislation of the countries of the Union.

(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, where one or more countries of the Union grant a term of protection in excess of that provided by paragraph 1, the term shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work.

(3) In the case of cinematographic and photographic works, as well as works produced by a process analogous to cinematography or photography and of works of applied art, the term of protection shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work.

(4) In the case of anonymous and pseudonymous works, the term of protection shall be fixed at fifty years from the date of their publication. 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.

(5) In the case of posthumous works which do not fall within the categories of works included in paragraphs 3 and 4 the term of the protection afforded to the heirs and the legal representatives and assignees of the author shall end at the expiry of fifty years after the death of the author.

(6) The term of protection subsequent to the death of the author and the terms provided by paragraphs 3, 4 and 5 shall run from the date of his death or of publication, but such terms shall always be deemed to begin on the 1st January of the year following the event which gives rise to them.

Article 7

In the case of a work of joint authorship, the term of protection shall be calculated from the date of the death of the last surviving author.

Article 8

Authors of literary and artistic works protected by this Convention shall have 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) Serial novels, short stories, and all other works, whether literary, scientific or artistic, whatever their purpose, and which are published in the newspapers or periodicals of one of the countries of the Union shall not be reproduced in the other countries without the consent of the authors.

(2) Articles on current economic, political or religious topics may be reproduced by the press unless the reproduction thereof is expressly reserved; nevertheless, the source must always be clearly indicated. The legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

(3) The protection of this Convention shall not apply to news of the day nor to miscellaneous information having the character of mere items of news.

Article 10

(1) It shall be permissible in all countries of the Union to make short quotations from newspaper articles and periodicals, as well as to include them in press summaries.

(2) The right to include excerpts of literary or artistic works in educational or scientific publications, or in chrestomathies, in so far as this inclusion is justified by its purpose, shall be a matter for legislation in the countries of the Union, and for special arrangements existing or to be concluded between them.

(3) Quotations and excerpts shall be accompanied by an acknowledgement of the source and by the name of the author, if his name appears thereon.

Article 10

It shall be a matter for legislation in countries of the Union to determine the conditions under which recording, reproduction and public communication of short extracts from literary and artistic works may be made for the purpose of reporting current events by means of photography, cinematography or by radio-diffusion.

Article 11

(1) The authors of dramatic, dramatico-musical or musical works shall enjoy the exclusive right of authorizing; i. the public presentation and public performance of their works; ii. the public distribution by any means of the presentation and performance of their works.

The application of the provisions of Articles 11 *bis* and 13 is always reserved.

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

(3) In order to enjoy the protection of this Article, authors shall not be bound, when publishing their works, to forbid the public presentation of performance thereof.

Article 11

(1) Authors of literary and artistic works shall have the exclusive right of authorizing: i. the radio-diffusion 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, whether over wires or not, of the radio-diffusion of the work, when this communication is made by a body other than the original one; iii. the communication to the public by loudspeaker or any other similar instrument transmitting, by signs, sounds or images, the radio diffusion 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 circumstances be prejudicial to the moral right of the author, nor to his right to obtain just remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) Except where otherwise provided, permission granted in accordance with the first paragraph of this Article shall not imply permission to record the work radio-diffused by means of instruments recording sounds or images. 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 body by means of its own facilities and used for its own emissions. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by legislation.

Article 11

Authors of literary works shall enjoy the exclusive right of authorizing the public recitation of their works.

Article 12

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

Article 13

(1) Authors of musical works shall have the exclusive right of authorizing: 1 [degrees] the recording of such works by instruments capable of reproducing them mechanically; 2 [degrees] the public performance of works thus recorded by means of such instruments.

(2) Reservations and conditions relating to the application of the rights mentioned in the preceding paragraph may be determined by legislation in each country of the Union, in so far as it may be concerned; but all such reservations and conditions shall apply only in the countries which have prescribed them and shall not, in any circumstances, be prejudicial to the author's right to obtain just remuneration which, in the absence of agreement, shall be fixed by competent authority.

(3) The provisions of the first paragraph of this Article shall not be retroactive and consequently shall not be applicable in a country of the Union to works which, in that country, may have been lawfully adapted to mechanical instruments before the coming into force of the Convention signed in Berlin on the 13th November 1908, and, in the case of a country having acceded to the Convention since that date or acceding to it in the future, before the date of its accession.

(4) Recordings made in accordance with paragraphs 2 and 3 of this Article and imported without permission from the parties concerned into a country where they are not lawfully allowed, shall be liable to seizure.

Article 14

(1) Authors of literary, scientific 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 presentation and performance of the works thus adapted or reproduced.

(2) Without prejudice to the rights of the author of the work adapted or reproduced, a cinematographic work shall be protected as an original work.

(3) The adaptation under any other artistic form of cinematographic productions derived from literary, scientific or artistic works shall, without prejudice to the authorization of their authors, remain subject to the authorization of the author of the original work.

(4) Cinematographic adaptations of literary, scientific or artistic works shall not be subject to the reservations and conditions contained in Article 13, paragraph 2.

(5) The provisions of this Article shall apply to reproduction or production effected by any other process analogous to cinematography.

Article 14

(1) The author or, after his death, the persons or institutions authorized by national legislation shall, in respect of 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 disposal of the work by the author.

(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 degree 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 institute infringement proceedings in 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) In the case of anonymous and pseudonymous works, other than those referred to in the preceding paragraph, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be regarded as representing the author, and in this capacity he shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply if the author reveals his identity and establishes his claim to authorship of the work.

Article 16

(1) Works infringing copyright may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

(2) In such a country the seizure may also apply to reproductions imported 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 in accordance with the 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 so far as it is concerned, the manner in which the said principle is to be applied.

(4) The above provisions shall apply equally in the case of new accessions to the Union, and in the event of protection being extended by the application of Article 7 or by abandonment of reservations.

Article 19

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

Article 20

The Governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, insofar as such arrangements shall confer upon authors more extended rights than those granted by the Convention, or embody other provisions not contrary to this Convention. The provisions of existing arrangements which satisfy these conditions shall remain applicable.

Article 21

(1) The International Office established under the name of the "Office of the International Union for the Protection of Literary and Artistic Works" shall be maintained.

(2) That Office shall be placed under the high authority of the Government of the Swiss Confederation, which shall regulate its organization and supervise its working.

(3) The official language of the Office shall be the French language.

Article 22

(1) The International Office shall collect information of every kind relating to the protection of the rights of authors over their literary and artistic works. It shall co-ordinate and publish such information. It shall undertake the study of questions of general interest to the Union and, by the aid of documents placed at its disposal by the different Administrations, it shall edit a periodical publication in the French language on the questions which concern the purpose of the Union. The Government of the countries of the Union reserve to themselves the power to authorize by agreement

the publication by the Office of an edition in one or more other languages, if by experience, this should be shown to be necessary.

(2) The International Office shall always place itself at the disposal of members of the Union in order to provide them with any special information which they may require relating to the protection of literary and artistic works.

(3) The Director of the International Office shall make an annual report on his administration, which shall be communicated to all the members of the Union.

Article 23

(1) The expenses of the Office of the International Union shall be shared by the countries of the Union. Until a fresh arrangement is made, they shall not exceed the amount of 120,000 gold francs a year.n1 This amount may be increased, if necessary, by unanimous decision of the countries of the Union or of one of the Conferences provided for in Article 24.

(2) The share of the total expense to be paid by each country shall be determined by the division of the countries of the Union and those subsequently acceding to the Union into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:

1st class	.....25 units
2nd "	.....20 "
3rd "	.....15 "
4th "	.....10 "
5th "	.....5 "
6th "	.....3 "

(3) These coefficients are multiplied by the number of countries of each class, and the total product thus obtained gives the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

(4) Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed, but it may subsequently declare that it wishes to be placed in another class.

(5) The Swiss Administration shall prepare the budget of the Office, supervise its expenditure, make the necessary advances, and draw up the annual account which shall be communicated to all the other Administrations.

Article 24

(1) This Convention may be submitted to revision for the purpose of introducing improvements intended to perfect the system of the Union.

(2) Questions of this kind, as well as those which in other respects concern the development of the Union, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries. The Administration of the country where a Conference is to meet shall, with the assistance of the International Office, prepare the programme of the Conference. The Director of the Office shall attend the sessions of the Conferences, and shall take part in the discussions without the right to vote.

(3) No alteration in this Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

Article 25

(1) countries outside the Union which make provision for the legal protection of the rights forming the object of the present Convention may accede thereto upon request.

(2) Such accession shall be notified in writing to the Government of the Swiss Confederation, who shall communicate it to all the other countries of the Union.

(3) Such accession shall imply full acceptance of all the clauses and admission to all the advantages provided by this Convention, and shall take effect one month after the date of the notification made by the Government of the Swiss Confederation to the other countries of the Union, unless some later date has been indicated by the acceding country. It

may, nevertheless, contain an indication that the adhering country wishes to substitute, provisionally at least, for Article 8, which relates to translations, the provisions of Article 5 of the Convention of 1886 revised at Paris in 1896, on the understanding that those provisions shall apply only to translations into the language or languages of that country.

Article 26

(1) Any country of the Union may at any time in writing notify the Swiss Government that this Convention shall apply to its overseas territories, colonies, protectorates, territories under its trusteeship, or to any other territory for the international relations of which it is responsible, and the Convention shall thereupon apply to all the territories named in such notification, as from a date determined in accordance with Article 25, paragraph 3. In the absence of such notification, the Convention shall not apply to such territories.

(2) Any country of the Union may at any time in writing notify the Government of the Swiss Confederation that this Convention shall cease to apply to all or any of the territories which have been made the subject of a notification under the preceding paragraph, and the Convention shall cease to apply in the territories named in this notification twelve months after its receipt by the Government of the Swiss Confederation.

(3) All notifications given to the Government of the Swiss Confederation in accordance with the provisions of paragraphs 1 and 2 of this Article shall be communicated by that Government to all the countries of the Union.

Article 27

(1) This Convention shall replace, in relations between the countries of the Union, the Convention of Berne of the 9th September 1886, and the subsequent revisions thereof. The instruments previously in force shall continue to be applicable in relations with countries which do not ratify this Convention.

(2) The countries on whose behalf this Convention is signed may retain the benefit of the reservations which they have previously formulated, on condition that they make declaration to that effect at the time of the deposit of their ratifications.

(3) countries which are at present members of the Union, but on whose behalf this Convention is not signed, may accede to it at any time in the form provided for in Article 25. In that event they may enjoy the benefit of the provisions of the preceding paragraph.

Article 27

A dispute between two or more countries of the Union, concerning the interpretation or application of this Convention, not settled by negotiation, shall be brought before the International Court of Justice for determination by it, unless the countries concerned agree on some other method of settlement.

The country requesting that the dispute should be brought before the Court shall inform the International Office; the Office shall bring the matter to the attention of the other countries of the Union.

Article 28

(1) This Convention shall be ratified, and the ratifications deposited at Brussels, not later than the 1st July 1951. The ratifications with the dates thereof and all declarations which may accompany them, shall be communicated by the Belgian Government to the government of the Swiss Confederation, which shall notify the other countries of the Union of all ratifications deposited.

(2) This Convention shall come into force, between the countries which have ratified it, one month after that date. Nevertheless, if before that date, it has been ratified by at least six countries of the Union, it shall come into force between those countries one month after the notification to them by the Government of the Swiss Confederation of the deposit of the sixth ratification and, in the case of countries which ratify thereafter, one month after the notification of each of such ratifications.

(3) Until the 1st July 1951, countries outside the Union may join it by acceding either to the Convention signed at Rome on the 2nd June 1928, or to this Convention. On or after the 1st July 1951, they may accede only to this Convention. The countries of the Union which shall not have acceded to this Convention by the 1st July 1951, may accede thereto in accordance with the procedure provided by Article 25. In this event they shall be entitled to the benefit of the provisions of Article 27, paragraph 2.

Article 29

(1) This Convention shall remain in force for an indefinite period. Nevertheless, each country of the Union shall be entitled to denounce it at any time, by means of a notification in writing addressed to the Government of the Swiss Confederation.

(2) This denunciation, which shall be communicated by the Government of the Swiss Confederation to all the other countries of the Union, shall take effect only in respect of the country making it, and twelve months after the receipt of the notification of denunciation addressed to the Government of the Swiss Confederation. The Convention shall remain in full force and effect for the other countries of the Union.

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiry of five years from the date of its ratification or accession.

Article 30

(1) countries which introduce into their legislation the term of protection of fifty years provided by Article 7, paragraph 1, of this Convention shall give notice thereof in writing to the Government of the Swiss Confederation, which shall immediately communicate it to all the other countries of the Union.

(2) The same procedure shall be followed in the case of countries abandoning the reservations made or maintained by them in accordance with Articles 25 and 27.

Article 31

The official Acts of the Conferences shall be established in French.

An equivalent text shall be established in English.

In case of dispute as to the interpretation of the Acts, the French text shall always prevail.

Any country or group of countries of the Union shall be entitled to have established by the International Office an authoritative text of the said Acts in the language of its choice, and by arrangement with the Office. These texts shall be published in the Acts of the Conferences, annexed to the French and English texts.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Convention.

Done at Brussels the 26th day of June 1948, in a single copy, which shall be deposited in the archives of the Department of Foreign Affairs and Foreign Trade of Belgium. A copy, duly certified, shall be transmitted by the diplomatic channel to each country of the Union.

FOOTNOTES:

[n1] Footnote *. Editor's note: For a current list of adherent countries see *App. 22*

[n2] Footnote 1. This monetary unit is the gold franc of 100 centimes, weighing 10/31 of a gramme and of a fineness of 0,900.