

APPENDIX

Berne Convention, 1886\*

**Convention Concerning the Creation of An  
International Union for the Protection of Literary  
and Artistic Works**

of September 9, 1886

*Article 1*

The Contracting States are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

*Article 2*

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries for their works, whether published in one of those countries or unpublished, the rights which the respective laws do now or may hereafter grant to natives.

The enjoyment of these rights shall be subject to the accomplishment of the conditions and formalities prescribed by law in the country of origin of the work, and must not exceed in the other countries the term of protection granted in the said country of origin.

The country of origin of the work shall be considered to be that in which the work is first published, or if such publication takes place simultaneously in several countries of the Union, that one of them the laws of which grant the shortest term of protection.

For unpublished works the country to which the author belongs shall be considered to be the country of origin of the work.

\* The Berne Convention, its Additional Article and its Final Protocol were signed by the following ten countries: Belgium, France, Germany, Haiti, Italy, Liberia, Spain, Switzerland, Tunisia, and the United Kingdom.

*Article 3*

The stipulations of the present Convention shall apply equally to the publishers of literary and artistic works published in one of the countries of the Union, but of which the authors belong to a country which is not a party to the Union.

*Article 4*

The expression 'literary and artistic works' shall include books, pamphlets, and all other writings; dramatic or dramatico-musical works, musical compositions with or without words; works of drawing, painting, sculpture and engraving; lithographs, illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture, or science in general; in fact, every production whatsoever in the literary, scientific, or artistic domain which can be published by any mode of impression or reproduction.

*Article 5*

Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the other countries the exclusive right of making or authorizing the translation of their works until the expiration of ten years from the publication of the original work in one of the countries of the Union.

For works published in incomplete parts (*livraisons*) the period of ten years shall

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commence from the date of publication of the last part of the original work.

For works composed of several volumes published at intervals, as well as for bulletins or collections (*cahiers*) published by literary or scientific societies, or by private persons, each volume, bulletin, or collection shall be, with regard to the period of ten years, considered as a separate work.

In the cases provided for by the present Article, and for the calculation of the terms of protection, the 31st December of the year in which the work was published shall be regarded as the date of publication.

### Article 6

Lawful translations shall be protected as original works. They shall consequently enjoy the protection stipulated in Articles 2 and 3 as regards their unauthorized reproduction in the countries of the Union.

It is understood that, in the case of a work for which the translating right has fallen into the public domain, the translator cannot oppose the translation of the same work by other writers.

### Article 7

Articles from newspapers or periodicals published in any of the countries of the Union may be reproduced in original or in translation in the other countries of the Union, unless the authors or publishers have expressly forbidden it. For periodicals it shall be sufficient if the prohibition is indicated in general terms at the beginning of each number of the periodical.

This prohibition cannot in any case apply to articles of political discussion, or to the reproduction of news of the day or miscellaneous information.

### Article 8

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational or scientific purposes, or for chrestomathies, the effect of the legislation of the countries of the Union, and of special arrangements existing or to be concluded between them, is not affected by the present Convention.

### Article 9

The stipulations of Article 2 shall apply to the public representation of dramatic or

dramatico-musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works, or their lawful representatives, shall be, during the existence of their exclusive right of translation, equally protected against the unauthorized public representation of translations of their works.

The stipulations of Article 2 shall apply equally to the public performance of unpublished musical works, or of published works in which the author has expressly declared on the title page or commencement of the work that he forbids the public performance thereof.

### Article 10

The following shall be specially included amongst the illicit reproductions to which the present Convention applies: unauthorized indirect appropriations of a literary or artistic work, of various kinds, such as adaptations, musical arrangements, etc., when they are only the reproduction of a particular work, in the same form, or in another form, without essential alterations, additions, or abridgments, so as not to present the character of a new original work.

It is agreed that, in the application of the present Article, the tribunals of the various countries of the Union will, if there is occasion, conform themselves to the provisions of their respective laws.

### Article 11

In order that the authors of works protected by the present Convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works, the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the lawful representative of the anonymous or pseudonymous author.

It is, nevertheless, agreed that the courts may, if necessary, require the production of a certificate from the competent authority to the effect that the formalities prescribed by law in

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the country of origin have been accomplished, as contemplated in Article 2.

### *Article 12*

Pirated works may be seized on importation into those countries of the Union where the original work enjoys legal protection.

The seizure shall take place in accordance with the domestic legislation of each country.

### *Article 13*

It is understood that the provisions of the present Convention cannot in any way affect the right belonging to the Government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

### *Article 14*

Under the reserves and conditions to be determined by common agreement, the present 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.

### *Article 15*

It is understood that the Governments of the countries of the Union reserve to themselves respectively the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors or their lawful representatives more extended rights than those granted by the Union, or embody other stipulations not contrary to the present Convention.

### *Article 16*

An International Office shall be established, under the name of 'Office of the International Union for the Protection of Literary and Artistic Works.'

This office, of which the expenses will be borne by the Administrations of all the countries of the Union, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its direction. The functions of this office shall be determined by common accord between the countries of the Union.

### *Article 17*

The present Convention may be submitted to revisions for the purpose of introducing therein amendments intended to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in Conferences to be held successively in the countries of the Union by delegates of the said countries.

It is understood that no alteration in the present Convention shall be binding on the Union except by the unanimous consent of the countries composing it.

### *Article 18*

Countries which have not become parties to the present Convention, and which make provision by the domestic law for the protection of the rights forming the object of the present Convention, shall be admitted to accede thereto on request to that effect.

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

Such accession shall imply full acceptance of all the clauses and admission to all the advantages provided by the present Convention.

### *Article 19*

Countries acceding to the present Convention shall also have the right to accede thereto at any time for their Colonies or foreign possessions.

They may do this either by a general Declaration comprising in the accession all their Colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

### *Article 20*

The present Convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government authorized to receive accessions. It shall only take effect in regard to the country making it, the Convention remaining in full force and effect for the other countries of the Union.

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### Article 21

The present Convention shall be ratified, and the ratifications exchanged at Berne within one year at the latest.

### Additional Article

The Convention concluded this day shall in no way affect the maintenance of existing Conventions between the Contracting States, provided always that such Conventions confer on authors, or their lawful representatives, rights more extended than those secured by the Union, or contain other stipulations which are not contrary to this Convention.

### Final Protocol

1. As regards Article 4 it is agreed that those countries of the Union where the character of artistic works is not refused to photographs engage to admit them to the benefits of the Convention concluded today, from the date of its coming into force. They shall, however, not be bound to protect the authors of such works further than is permitted by their own legislation except in the case of international engagements already existing, or which may hereafter be entered into by them.

It is understood that an authorized photograph of a protected work of art shall enjoy legal protection in all the countries of the Union, as contemplated by the said Convention, for the same period as the principal right of reproduction of the work itself subsists, and within the limits of private agreements between those who have legal rights.

2. As regards Article 9 it is agreed that those countries of the Union whose legislation implicitly includes choreographic works amongst dramatico-musical works expressly admit the former works to the benefits of the Convention concluded this day.

It is, however, understood that questions which may arise on the application of this clause shall rest within the competence of the respective tribunals to decide.

3. It is understood that the manufacture and sale of instruments for the mechanical reproduction of musical airs in which copyright subsists shall not be considered as constituting an infringement of musical copyright.

4. The common agreement contemplated in Article 14 of the Convention is established as follows:

The application of the Convention to works which have not fallen into the public domain at the time when it comes into force shall take effect according to the relevant stipulations contained in special Conventions existing, or to be concluded, to that effect.

In the absence of such stipulations between any countries of the Union, the respective countries shall regulate, each in so far as it is concerned, by its domestic legislation, the manner in which the principle contained in Article 14 is to be applied.

5. The organization of the International Office established in virtue of Article 16 of the Convention shall be fixed by a regulation which shall be drawn up by the Government of the Swiss Confederation.

The official language of the International Office shall be French.

The International Office will collect every kind of information relative to the protection of the rights of authors over their literary and artistic works. It will arrange and publish such information. It will undertake the study of questions of general interest concerning the Union, and, by the aid of documents placed at its disposal by the different Administrations, will edit a periodical publication in the French language on the questions which concern the purpose of the Union. The Governments of the countries of the Union reserve to themselves the power to authorize, by common accord, the publication by the Office of an edition in one or more other languages if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with a view to furnish them with any special information they may require relative to the protection of literary and artistic works.

The Administration of the country where a Conference is to meet will prepare the programme of the Conference with the assistance of the International Office. The Director of the International Office shall attend the sittings of the Conferences, and shall take part in the discussions without the right to vote. He shall make an annual report on his administration, which shall be communicated to all the members of the Union.

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The expenses of the office of the International Union shall be shared by the Contracting States. Until a fresh arrangement be made, they cannot exceed the sum of sixty thousand francs a year. This sum may be increased, if necessary, by the simple decision of one of the Conferences provided for in Article 17.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries 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 „..... | 5 „      |
| 4th „..... | 10 „     |
| 5th „..... | 5 „      |
| 6th „..... | 3 „      |

These coefficients will be multiplied by the number of countries of each class and the total product thus obtained will give the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

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

6. The next Conference shall be held at Paris between four and six years from the date of the coming into force of the Convention.

The French Government will fix the date within these limits after having consulted the International Office.

7. It is agreed that, as regards the exchange of ratifications contemplated in Article 21, each Contracting Party shall deliver a single instrument, which shall be deposited, with those of the other countries, in the archives of the Government of the Swiss Confederation. Each Party shall receive in return a copy of the *procès-verbal* of the exchange of ratifications, signed by the Pleni-potentiaries who took part.

The present Final Protocol, which shall be ratified with the Convention concluded this day, shall be considered as forming an integral part of the said Convention, and shall have the same force and duration.

### Paris Additional Act and Interpretative Declaration, 1896\*

## Additional Act Amending Articles 2, 3, 5, 7, 12, and 20, of the Convention of September 9, 1886, and Numbers 1 and 4 of the Final Protocol Annexed Thereto

of May 4, 1896

#### *Article 1*

The International Convention of the 9th September, 1886, is modified as follows:

I. Article 2. The first paragraph of Article 2 shall run as follows:

‘Authors who are subjects or citizens of any of the countries of the Union, or their lawful representatives, shall enjoy in the

other countries for their works, whether unpublished, or first published in one of

\* The Paris Additional Act and Interpretative Declaration were signed by the following twelve countries: Belgium, France, Germany, Italy, Luxembourg, Monaco, Montenegro, Norway (Interpretative Declaration only), Spain, Switzerland, Tunisia, and the United Kingdom (the United Kingdom signed only the Additional Act).